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Tokelau

Working paper prepared by the Secretariat

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I. General

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 km^2. Fakaofo is the southernmost atoll; Nukunonu is nearly 50 km away; and Atafu is nearly 100 km from Nukunonu. Each atoll comprises strips of land no more than 200 m wide and never more than 5 m above sea level. Samoa, 480 km to the south, is the nearest sizeable neighbour and the principal point of contact for Tokelau with the outside world.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last five-yearly census, taken on 19 October 2006, recorded a de jure resident population of 1,466. This figure includes all usual residents present in Tokelau on census night (excluding visitors), plus those who usually reside in Tokelau but were overseas temporarily in Government employment or for educational and medical reasons, a frequent occurrence in the Territory. The 2001 census had recorded a population of 1,537, which included all those present in Tokelau on census night as well as those counted in Apia, Samoa. By atoll, the 2006 population was recorded as follows: Atafu, 524; Fakaofo, 483; and Nukunonu, 426. An additional 33 Tokelauan public servants, including their immediate families, were recorded in Apia, where the Tokelau Apia Liaison Office is located. The constraints of atoll life and the limited opportunities there, as well as the right of Tokelauans, as New Zealand citizens, to live in New Zealand (and therefore also Australia), have led many Tokelauans over the past 40 or more years to leave their atolls. In 2006, almost 7,000 people in New Zealand declared themselves to be Tokelauan. Sizeable Tokelauan communities also exist in Australia and Samoa. These communities include both those born on the atolls of Tokelau and a growing percentage of people born outside Tokelau.

3. There has never been a New Zealand representative resident in the Territory. The New Zealand official with principal responsibility for relations with Tokelau is the Administrator of Tokelau, appointed by the Minister for Foreign Affairs and Trade of New Zealand. In October 2006, David Payton was appointed as Administrator.

II. Constitutional and political developments

4. As reported in previous working papers on the question of Tokelau (see A/AC.109/2001/5, A/AC.109/2002/6, A/AC.109/2003/10, A/AC.109/2004/8 and A/AC.109/2005/3), the current process of constitutional development stems from the 1998 decision by the General Fono (the national representative body of Tokelau) to endorse a comprehensive report entitled "Modern House of Tokelau", which addressed the core issue that faced Tokelau in creating a constitutional framework: i.e. how to construct a governance and administrative system that suited a self-governing nation based on the atoll or village structure and that respected traditional decision-making customs.

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

5. Regarding the legislative structure, in accordance with recommendations made in the 1998 Modern House report, a new electoral system was instituted for the General Fono in 1999. The issue of representation within the General Fono was reviewed again in October 2004, and decisions were made on a method of appointment of the Chairperson of the General Fono and on the role and responsibilities of the six-person Council of Ongoing Government, which is, in effect, the executive Government during times when the General Fono is not in session. The Council consists of the three Faipule (the representative of each village) and the three Pulenuku (the mayor of each village).

6. Since November 2001, legislative seats in the General Fono have been proportional to the size of the population of each atoll. Replacing the former structure of 18 members (6 per atoll), the new General Fono has 20 members, giving Atafu and Fakaofo seven delegates each, and Nukunonu has six. Elections for Faipule, Pulenuku and General Fono delegates are held in each village in January every third year. Elections took place from 17 to 19 January 2008. The position of Ulu-o-Tokelau, or Head of Government, rotates annually among the three Faipule. In 2007, it was held by Kuresa Nasau, Faipule of Atafu, who won re-election together with the Faipule of Nukunonu, Pio Tuia, who in February will be sworn in as the Ulu for 2008. A new Faipule for Fakaofo was also elected: Foua Toloa.

7. The first discussions on a new framework for the relationship between New Zealand and Tokelau, based on initial studies for a Tokelauan Constitution, funded by the United Nations Development Programme (UNDP) in the mid-1990s, were held in Wellington in December 2002. Following further consultations, a Principles of Partnership statement was agreed upon by the June 2003 General Fono and subsequently approved by the New Zealand Government. The Partnership agreement with New Zealand provided the medium- to long-term context in which work could be carried forward on constitutional and other developments for Tokelau. The document addressed the management of the Partnership, self-determination for Tokelau, Tokelauan language and culture, New Zealand citizenship, shared values, economic and administrative assistance, coordination of services to Tokelau, defence and security, foreign affairs and the Tokelauan community in New Zealand. At the same time, the New Zealand Government approved a support scheme for Tokelau known as the Administrative Assistance Scheme. The essence of the scheme was that all New Zealand Government agencies were formally instructed to consider providing assistance to Tokelau within their spheres of responsibility. Arrangements were made for the Office of the Administrator in Wellington to act as the liaison and coordination point for the scheme.

8. At its meeting in June 2003, the General Fono had also agreed that the three Village Councils should assume full responsibility for all the public services on their atolls and a target date of 30 June 2004 for the achievement of that objective was met. The decision stemmed from the earlier agreement emanating from the Modern House of Tokelau approach (see para. 4 above), whereby the traditional Council of Elders on each atoll should serve as the foundation for a future governance structure. Under that arrangement, the three Village Councils would delegate authority to the General Fono for those activities that needed to be handled at the national level (for further details on the review process of the public services of Tokelau prior to 30 June 2004, see A/AC.109/2005/3). The remaining aspect of the Modern House project, known as Friends of Tokelau (i.e. keeping Tokelauan communities in New Zealand and other interested parties informed of developments) is being handled by

the Office of the Council of Ongoing Government of Tokelau and the Office of the Administrator in Wellington. The Administrator's office has been incorporated into a larger Special Relations Unit, which is responsible for New Zealand's relationship with Tokelau (as well as with Niue), and is staffed by officers of both the Ministry of Foreign Affairs and the New Zealand Agency for International Development (NZAID).

9. At its June 2003 meeting, the General Fono also took a formal decision, by consensus and with the support of all three Village Councils, to "endorse self-government in free association with New Zealand as the choice now to be actively explored with the New Zealand Government". In November 2003, following extensive consultations conducted on all three atolls, the General Fono adopted a paper recommended by its Special Constitutional Committee which brought together all the main elements expected to underpin an eventual constitution. The paper drew upon customary practice, the written rules of the General Fono and parts of New Zealand law.

10. Agreement on the steps to be taken to give effect to this decision was reached at the General Fono, held in January 2004. Preparations included a series of discussions with senior officials in both Wellington and Apia, meetings with Tokelau's constitutional adviser, Professor Tony Angelo, as well as with senior Tokelau officials and political leadership, and a number of meetings with overseas Tokelauan communities in New Zealand, Samoa, American Samoa, Hawaii and Australia. During a visit to Tokelau in August 2004, the New Zealand Prime Minister welcomed decisions by Tokelau on its future political status and assured Tokelau of the ongoing friendship and support of New Zealand as it moved towards the act of self-determination.

11. The draft constitution was further considered at the October 2004 meetings of the Special Constitutional Committee and the General Fono, and was endorsed by the August 2005 General Fono as the basis for the proposed act of self-determination. The October 2004 General Fono also took a number of decisions on Tokelau's draft constitution and legislative framework, and reached agreement on law-making procedures, the role of the constitutional advisory body, Kau Hauatea, the judicial system and the newly established Tokelau International Trust Fund.

12. At the invitation of the Prime Minister of New Zealand, the Council of Ongoing Government visited New Zealand in November 2004 for high-level discussions on Tokelau's further political evolution. The Council met with the Governor-General, the Prime Minister, the Minister for Foreign Affairs and Trade and the leader of the opposition. The Council also held a series of meetings with the main Tokelauan communities in New Zealand. The Council made another official visit to New Zealand in November 2005, again meeting with all the major Tokelauan communities.

13. At its August 2005 meeting, the General Fono approved the text of a draft treaty of free association between Tokelau and New Zealand. The draft treaty together with the draft constitution, the so-called "Referendum Package", was to form the basis for the referendum on self-determination. The General Fono also appointed a translation committee and a referendum commission and in November 2005 set the dates for the referendum from 11 to 15 February 2006. It agreed that an overall majority of two thirds of the valid votes cast would be required for a change to the status of Tokelau and decided that the voting should take place sequentially in Apia and on the three atolls.

14. The referendum to determine the future status of Tokelau took place as planned in February 2006. Sixty per cent of registered Tokelauan voters voted in favour of self-government in free association with New Zealand. That percentage, however, was not sufficient to meet the required two-thirds majority. In numbers, a total of 584 voters (95 per cent of registered voters) turned out, with 349 voting in favour and 232 against. Three votes were declared invalid. The voting was conducted in the presence of a United Nations monitoring mission, which deemed the election process credible and reflective of the will of the people. Following a 2005 invitation by the New Zealand Government on behalf of Tokelau and New Zealand, Robert Aisi, Permanent Representative of Papua New Guinea to the United Nations, represented the Special Committee throughout the referendum process. He was accompanied by a representative of the Decolonization Unit of the Department of Political Affairs. Also present from the United Nations to formally monitor the elections were representatives of the Electoral Assistance Division, from both Headquarters and from Fiji.[2]

15. Following the referendum, the Council of Ongoing Government and the New Zealand Government agreed to leave the referendum package on the table for future consideration. Following consultations between the Council of Ongoing Government, the three villages and the General Fono, in August 2006, the General Fono took a consensus decision to hold a second referendum on Tokelauan self determination in late 2007. The proposed constitution and the draft treaty, commonly referred to as the self-determination package, were to be the same and the legal threshold for acceptance of the proposal would remain at a two-thirds majority: 66 per cent plus one.

16. Preparations for this second referendum followed closely those for the earlier one. Extensive consultations on each atoll took place, with primary emphasis focused on ensuring that all voters clearly understood what the proposed shift to self-government would entail (and equally what it would not). Contacts between the leadership of Tokelau and Tokelauan communities outside the atolls also took place. A feature of pre-referendum preparations was an intensive voter registration campaign. There were 789 people who registered to vote in the 2007 referendum, representing a 25 per cent increase over the 2006 voter rolls.

17. In accordance with the decision of the General Fono that the referendum should take place in late 2007 and before the onset of the cyclone season, the dates of 20 to 24 October were agreed upon for the voting. Voting in Apia was on 20 October, followed by voting on 22, 23 and 24 October, respectively, on Fakaofo, Nukunonu and Atafu. At 697, voter turnout, as a percentage of those registered, was lower than for the first referendum, with most non-voting occurring among those registered to vote outside Tokelau. The results of the voting were as follows: 446 voted in favour of the proposal of a shift to self-government, representing 64.4 per cent of valid votes cast; 246 rejected the proposal; and five votes were invalid. As this was less than the two-thirds threshold for a change of status, the outcome of the referendum was that Tokelau would remain a dependent territory. As was the case for the first referendum, the voting was conducted in the presence of a United Nations monitoring mission, which deemed that the election process was credible and reflected the will of the people. Ambassador Robert Aisi, Permanent Representative of Papua New Guinea to the United Nations, again represented the Special

[2] For more information on the 2006 Tokelau referendum, see A/AC.109/2006/20 and A/AC.109/2007/11.

Committee on Decolonization throughout the referendum process, accompanied by a representative of the Decolonization Unit of the Department of Political Affairs. Representatives of the Electoral Assistance Division formally monitored the elections on behalf of the United Nations.[3]

18. Following the results of the referendum, the General Fono met in Atafu on 25 and 26 October 2007 and decided to refer the "Question on Tokelau's Way Forward" to the Taupulega (the Council of Elders), to report back to the next General Fono (February 2008). It was also decided that there would be a report from the Council of Ongoing Government, taking into consideration the views of the New Zealand Government. The advice from the Government of New Zealand via the Administrator of Tokelau was that, on the matter of decolonization, it was to Tokelau to decide how to proceed. Whatever decision the General Fono made, New Zealand would not stand in the way. However, it was suggested that it might be helpful if several years were allowed to elapse before holding another referendum. One of the main concerns from the General Fono was how to ensure that the draft treaty remained on the table. The General Fono had made a decision to send a letter to the New Zealand Government requesting that the entire Package (i.e. the draft treaty and draft constitution that had been agreed on and had served as the foundation for the previous ballots) remain on the table.

19. The Council of Ongoing Government also met in the margins of the General Fono in October 2007 and discussed the results of the referendum and a possible way forward for Tokelau with the Administrator and the constitutional adviser of Tokelau. The Council of Ongoing Government noted the advice that Tokelau could in the future change the two-thirds majority threshold for the referendum, but should put in place measures to ensure that there was a clear majority in each village to guarantee unity. The Council of Ongoing Government also noted Tokelau's strong commitment to self-determination and its wish for an amended constitution. The Council directed its legal advisers to make the required amendments to the Constitution and to distribute it to all the villages.

20. The Council also felt that, since Tokelau now had enhanced financial security, it should focus on implementing various priority projects related to infrastructure and shipping. It was also agreed that much work needed to be done to improve and develop the villages and to strengthen the General Fono, the Council of Ongoing Government of Tokelau and the Tokelau Public Service.

III. External relations

21. As set out in paragraphs 9 and 10 of the Principles of Partnership statement, Tokelau as a Non-Self-Governing Territory currently has insufficient international legal personality to enter into formal international legal obligations in its own right. New Zealand is responsible for entering into any such obligations on behalf of Tokelau, after consulting with Tokelau as to its wishes. Tokelau participates in regional and international organizations in its own right to the extent that those organizations provide for such participation.

22. Tokelau is a member of the Forum Fisheries Agency, the South Pacific Community, the University of the South Pacific and the Pacific Regional Environment

[3] For a full report on the October 2007 Tokelau referendum, see A/AC.109/2007/19.

Programme. In October 2005, Tokelau was admitted as an Associate Member of the South Pacific Applied Geoscience Commission. Later that month, the Ulu of Tokelau attended the Pacific Islands Forum meeting, where Tokelau was welcomed as an observer for the first time. It has since then been determined that Tokelau will remain an observer until such time as, through an act of self-determination, Tokelau decides to change its status. Tokelau is also an Associate Member of the World Health Organization (WHO) and of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

23. In March 2003, the first formal visit to Tokelau by a Samoan Prime Minister took place and a memorandum of understanding was signed, in which the Territory and Samoa agreed on an annual programme of activities in areas such as education, shipping and economic cooperation. A first round of talks was held with the Prime Minister in December 2004, as provided for in the memorandum of understanding. Subsequently, contacts between Tokelau's leadership and the Government of Samoa have become more frequent, with increasing agreement on areas for practical cooperation, such as Tokelau being allowed to ship certain waste to Samoa.

24. Following a visit to Tokelau in April 2003 by the Director-General of the Secretariat of the Pacific Community, it was agreed that a senior member of the secretariat would act as a focal point for Tokelau programme activities, focusing on community health, youth, women, fisheries and cultural development.

25. In November 2003, New Zealand and Tokelau entered into an agreement with France on the delimitation of the maritime boundaries between Wallis and Futuna and Tokelau. Negotiations are now under way with Kiribati, and preliminary discussions have been held with the Cook Islands and Samoa.

IV. Economic conditions

26. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the *inati* system and the importance attached to upholding the concept of the family and/or the extended family. The tradition of *inati* requires the deposition at a central location of food and produce, which is then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that addresses the needs of every member of the community, including the elderly, widows, single parents and children.

27. Major constraints on economic growth include natural disadvantages, such as the small size of Tokelau, its isolation, the geographical dispersion of the atolls, limited and poor natural resources and natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power.

28. Tokelau has a unique combination of traditional and modern income resource streams. With Government funding, many villagers are paid regularly for various village duties ranging from construction and boat-loading to assistance to the General Fono and other public entities. The devolution of public services to the atolls has also increased the number of wage employees as well as the need for specialized skill development or qualifications. The past few years have seen a rise in small enterprises and in interest in generating cash income. However, artisans

prefer to keep handicrafts as a cultural practice rather than use them for commercial gain. Much investment has been made in expanding fisheries commercially over the past decade, but maintaining artisanal fisheries at a subsistence level remains the preferred approach. In addition, lack of reliable transport makes competition with Samoan fisheries, which are closer to markets, virtually impossible.

29. Migration of skilled persons is an ongoing challenge to the sustainability of any endeavour. However, unlike other islands in free association with New Zealand, namely Niue and the Cook Islands, where numbers are dwindling rapidly, Tokelau has been able to maintain a steady population. Although the recent census did indicate a decrease in numbers, the view of Tokelau's leadership is that most people leave Tokelau only temporarily, mainly for reasons of education (schools on the atolls currently provide education up to year 11 only); health (hospitals are currently equipped for basic services only); and employment. The coming years will show whether this perception of population retention is justified. What is very clear to both Tokelau and New Zealand is that basic services in the health, education, transport and communications areas must be maintained at levels which allow the inhabitants of the atolls to retain confidence in the quality of life on Tokelau's atolls. To this end, major programmes to upgrade health and education facilities and services are under way, funded by additional resources from New Zealand. A major upgrade of Tokelau's shipping service is also in progress.

A. Economic developments

30. Assistance to Tokelau is provided by New Zealand under the terms of three-year economic support arrangements. The most recent of these was signed by the New Zealand Minister for Foreign Affairs and the Ulu of Tokelau in December 2007. It covers the period from 1 July 2007 to 30 June 2010 and commits up to $NZ 43.18 million in assistance for Tokelau.[4] The Minister for Foreign Affairs also announced an additional New Zealand contribution to the Tokelau International Trust Fund. The Fund, formally established in November 2004, is designed to provide intergenerational security and independent source of income to Tokelau. With contributions from Tokelau, New Zealand, Australia, and the United Kingdom of Great Britain and Northern Ireland, the Fund now stands at $NZ 33 million.

31. Tokelau's overall budget for 2007-2008 is set at $NZ 13.18 million. The full budget is now under Tokelau's control (previously it controlled the budgetary support element but not the project assistance funds), with New Zealand remaining the primary source of economic support. Included within the overall budget support are $NZ 10 million in operating costs, $NZ 1.05 million in technical assistance, $NZ 1.12 million in infrastructure assistance, $NZ 500,000 for shipping services and a balance in other related programmes. By 2009-2010, overall assistance to Tokelau is projected to increase to $NZ 15.3 million.

32. Throughout 2007, discussion continued within Tokelau and with New Zealand on appropriate and achievable goals and objectives in the area of economic development. In recognition of the fact that accomplishments in this key sector in recent years have been modest at best, both Tokelau and New Zealand have

[4] As at 22 January 2008, the New Zealand dollar was equivalent to 0.77 United States dollars.

reaffirmed their commitment to identifying activities and projects that can be viably established and maintained.

33. Regarding commercial fisheries, under the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, Tokelau earns fees paid by United States vessels fishing in its exclusive economic zone. Tokelau earned more than $NZ 1 million in such fishing fees in 2007.

34. In the previous country programme cycle from 2003 to 2007, UNDP contributed from its multi-country office in Apia to the strengthening of the Territory's social and economic capabilities, sustainable human development, disaster risk reduction, energy and the environment. Some of the milestones in the UNDP relationship with Tokelau during this cycle have been the signing of the memorandum of understanding between Tokelau and Samoa allowing Tokelau to ship certain waste to Samoa, a national energy policy for Tokelau, including pilot studies and projects on renewable energy, and support for initial preparations leading up to the referendums on self-determination. In late November 2006, the Territory hosted 10 regional and international organizations. The visit was a first, whereby United Nations organizations, including UNDP, worked together to develop a joint mission report and strategy for Tokelau. A draft strategy for the work of agencies active in Tokelau, covering the period from 2007 to 2010 and prepared jointly by the United Nations and the Council of Regional Organizations in the Pacific (CROP), was released at the end of 2007 for initial discussion. It is hoped that this strategy will help to avoid a piecemeal approach on the part of international and regional organizations in meeting Tokelau's development requirements. New Zealand and Tokelau have agreed to look at how Tokelau's interaction with a growing number of development partners and agencies can be rationalized to primarily reflect Tokelau's needs.

35. The Tokelau/UNDP Country Programme for 2008 to 2012 will focus on equitable economic growth and poverty reduction, good governance and human rights, crisis prevention and recovery, and sustainable environmental management, with gender equality as a cross-cutting theme. Support will be provided for national development planning, a first Millennium Development Goals report for Tokelau will be prepared for submission to the General Assembly in 2010, a human development index and a gender-related development index will be produced for the first time for Tokelau, and practical options will be developed for population retention, income generation and sustainable livelihoods. Support will continue for capacity development and a new initiative is expected for leadership training for youth. Institutional mechanisms and capacities will be strengthened for effective disaster response. Community-based initiatives will be supported and scaled up through gender-sensitive local-level planning, particularly for environmental management, disaster risk reduction, climate change adaptation, sustainable livelihoods, energy efficiency and renewable energy use.

36. UNDP will continue to support the participation of Tokelau in the Global Environment Facility Small Grants Programme through the NZAID Pacific Environment Fund. All these initiatives will be implemented under the leadership of the Tokelau Government and in close partnership with United Nations agencies through the United Nations Development Assistance Framework (2008-2012), and with the CROP agencies through the United Nations/CROP integrated framework for development in Tokelau (see para. 34 above).

37. In February 2005, Tokelau was struck by a force 5 cyclone (Cyclone Percy), which did considerable damage to Tokelau's infrastructure and caused major damage to the atolls of Nukunonu and Fakaofo. In addition to the assistance provided by New Zealand, Tokelau received generous offers of help from UNDP and the Governments of Australia and Samoa. The Office for the Coordination of Humanitarian Affairs fielded a disaster assessment coordination team within one week of the disaster, at the request of the United Nations Resident Coordinator based in Apia. The team conducted an assessment of the damage caused by the cyclone and identified areas that required priority assistance from the United Nations and the international community. A number of non-governmental organizations (for example, the Samoa Red Cross Society) and individuals also contributed to the relief effort. The sea wall repairs and extensions are of high priority in all three villages.

38. In 2007, UNDP provided US$ 205,000 for the sea wall project. Though the project started quite slowly after it was signed in 2006, the progress in 2007 has been quite noticeable. The project is ongoing at present under a national execution modality, wherein each atoll has been allocated funds from the total amount for strengthening their sea walls. As at end of 2007, upgrading of the sea wall surrounding the main residential islet of Fale, Fakaofo was completed. Assistance is now being sought for similar protection for the second residential islet (Fenuafala), where the school and hospital are located. Work continues in Atafu and Nukunonu, in the most vulnerable areas of the two villages. The slower progress on Atafu and Nukunonu is primarily due to slow delivery of gabion baskets from overseas.

B. Public services

39. No further developments were reported during the review period (see A/AC.109/2005/3, paras. 32-34).

C. Transport and communications

40. Tokelau has no airstrips and its main transportation option is that provided by a single vessel, the *MV Tokelau*, a ship with limited cargo and passenger capacity that provides service every two weeks between Tokelau and Apia, as well as inter-atoll services. The United Nations mission that visited the Territory in August 2002 concluded that the lack of transportation options was one of the greatest obstacles to economic and social development in the Territory and recommended that serious consideration be given to the establishment of a dedicated inter-atoll ferry and an airstrip on one of the atolls. Since 2003, New Zealand has funded additional visits by larger vessels under charter from the Samoa Shipping Corporation Ltd. A review of shipping services has been completed and consideration is now being given to the provision by New Zealand, under its official development assistance programme, of either a purpose-built ship owned by the Tokelau Government or a long-term dedicated charter service. During the Pacific regional seminar on decolonization, held in Fiji in November 2006, Administrator David Payton said he was pleased to be able to signal major advances in the upgrading of the shipping services. Studies on improvements to the wharfage facilities at each atoll are also progressing.

41. The ongoing development of Tokelau's infrastructure and maintenance of existing facilities is a major facet of Tokelau/New Zealand relations. Decisions on

the prioritization of projects rests with the Tokelau Government, both at the level of the public service and the village councils. It is worth noting that, in setting priorities for infrastructure development on an atoll-by-atoll basis, no proposal has been submitted to date by any of the atoll councils for the construction of an airstrip. Upgrading of schools and hospitals has been accorded the highest priority on each atoll for the coming three-year programme cycle.

42. For more than a decade, large investments have been made to facilitate contacts for Tokelauans inter-atoll as well as with the outside world. In April 1997, the Telecommunications Tokelau Corporation, a $NZ 4 million international telecommunication service, was inaugurated. Tokelau also has a website (www.dot.tk) which became operational in January 2002 and offers both free and paid domain names. The website is the result of a commercial licensing agreement between the Corporation and a private company, Taloha Inc. It is seen as having the potential to provide revenue to the Territory without any capital outlay by the Corporation.[5]

43. In February 2002, FM radio stations were inaugurated on each of the atolls with funding from New Zealand. Although they currently operate independently, there are plans to link them at least once a week for a national programme. This is being considered under a media development project funded by UNESCO. These radio stations are seen as an excellent means of maintaining the Territory's cultural heritage, as well as facilitating communication and transparency on community and decision-making matters, since they broadcast meetings of the Council of Elders on each atoll.

44. In 2004, UNDP funded a comprehensive review of telecommunications and stimulated a number of reforms in the Telecommunications Tokelau Corporation and in the integration of Internet facilities and services. A Tokelau law website, funded by the UNDP thematic trust fund for democratic governance and aimed at making the Constitution and all Tokelauan legislation accessible to the Tokelauan population, was developed in 2005 and launched in February 2006.

D. Power supply

45. In 2001, work was begun on a diesel-powered electricity system in all three atolls, under the auspices of the New Zealand Agency for International Development. The initial stages of the project, completed in 2004, cost some $NZ 2 million. In 2005, an agreement was reached on the completion of the project at an additional cost of $NZ 1 million. Work is now almost complete. Tokelau's goal of being completely provisioned by renewable energy sources is supported by a pilot photovoltaic energy grid project funded by UNDP and contributions from the Government of France. The project, covering 15 households on Fakaofo, will be expanded to complete atoll coverage, thereby significantly reducing reliance on fossil fuels. Steady increases in the cost of imported fossil fuels also underscore the importance to Tokelau of a significant shift to renewable energy sources, as well as the vital need for increased awareness within the atoll communities of energy conservation and efficiency.

[5] Press release, "History in the making" (February 2002), and information transmitted by the Administrator of Tokelau.

V. Social conditions

A. Education

46. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific, Tokelau also has access to the University's educational telecommunications system through a satellite established in Atafu. Despite significant and increasing levels of funding for education over many years, education standards on the atolls remain relatively low. This is a key reason why significant numbers of families leave the atolls to seek improved educational opportunities for their children in Samoa, New Zealand and elsewhere. Both Tokelau and New Zealand recognize that this situation needs to be robustly addressed, while also acknowledging that educational and career aspirations will always be a key factor in the departure of some segments of the atoll populations. In addition to a major programme of school construction and renovation, efforts have been devoted in the past year to curriculum development, training of principals and senior staff and the extension of secondary schooling in 2008 to cover year 12, with a possible further extension to year 13 in 2009.

B. Health

47. The provision of adequate health services to the populations of three dispersed atolls connected to the wider world by sea transport will always be one of the most important challenges for Tokelau. The major non-local sources of contributions to health care are the New Zealand Government, WHO, UNICEF, the United Nations Population Fund and UNDP, as well as the Government of Australia and the Secretariat of the Pacific Community (SPC). The national health plan's priorities are (a) healthy islands and communities; (b) healthy lifestyles; (c) development of health partnerships; (d) development of accessible primary health-care services; (e) successful community participation; and (f) development and improvement of the health service system.[6]

48. Each of Tokelau's atolls has a basic hospital, staffed and equipped to deliver core medical care and related services. Ensuring that each is adequately staffed and supported by necessary equipment and supplies is a challenge. Considerable attention and funding is devoted to this core area of Tokelau's needs. The overall result in terms of delivery of quality health services for the people of the atolls has been mixed. Discussions are taking place between the leaders of Tokelau and the administering Power about the level and quality of health services required on each atoll and the most appropriate means of ensuring that these are provided. Ensuring that the people of Tokelau are well served in this crucial area will be a major element of both Tokelau's and New Zealand's efforts during the coming year.

49. WHO has focused its support on four priority health areas, acting with a total budget allocation of US$ 107,000 in 2006-2007, and US$ 112,000 for 2008-2009. The four priority areas are:

(a) Policy development and strategic advice in the key health areas;

[6] Information from WHO, 28 January 2007.

(b) Human resources for health (such as the training of doctors, dentists, nurses and environmental health staff);

(c) Health promotion workshops and awareness campaigns on HIV/AIDS, sexually transmitted infections, healthy lifestyles and other topics; and

(d) Support for prevention and control of non-communicable diseases.

The need for these health education programmes has grown as a result of changes in lifestyle and an increase in non-communicable diseases in Tokelau. Other support provided by WHO relates to primary prevention of communicable diseases through the expanded programme of immunization against childhood diseases, the procurement of needed medical supplies and equipment and the provision of expert health-related technical assistance, as required.

50. WHO notes that, although the general health status of Tokelauans is good, changes have been observed over the past few years. The mortality rate from non-communicable diseases has increased from 31 per cent in 1981 to almost 38 per cent in 2003. High blood pressure readings are seen in 36 per cent of women and 23 per cent of men 30 years of age and above. High blood sugar levels for the same age group is seen in 18 per cent of men and 28 per cent of women. Tobacco and alcohol consumption are relatively high among the adult population, especially in males. Obesity is widespread, with a prevalence of 70 per cent for men and 83 per cent for women 30-39 years of age.[7]

C. Status of women

51. No further developments were reported during the review period (see A/AC.109/2005/3, para. 42). However, the Tokelau/UNDP country programme for 2008-2012 will focus on equitable economic growth and poverty reduction, good governance and human rights, crisis prevention and recovery and sustainable environmental management, with gender equality as a cross-cutting theme (see para. 35 above).

VI. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

52. In August 2002, a mission of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples visited Tokelau and New Zealand. It was the fifth such visiting mission since 1976.[8] In October 2004, the Chairperson of the Special Committee attended the special constitutional workshop held at Atafu, pursuant to the invitation extended by the Ulu of Tokelau earlier in the year.

[7] Country health information profile, WHO Samoa office, 14 January 2008.

[8] For further details, see the report of the mission (A/AC.109/2002/31).

53. In February 2006 and October 2007, at the invitation of the Government of New Zealand and the people of Tokelau, the former Chairperson of the Special Committee, Robert Aisi, Permanent Representative of Papua New Guinea to the United Nations, together with a representative of the Decolonization Unit of the Department of Political Affairs, attended the Tokelau referendums, as described in paragraphs 14 to 17 above. In June 2007, as in previous years, the Ulu-o-Tokelau, Kuresa Nasau, and the Administrator, David Payton, participated in the session of the Special Committee at Headquarters in New York (see para. 60 below). In November 2006, the Special Committee held a Pacific regional seminar in Yanuca, Fiji, at which Tokelau was used as a case study illustrating how small Territories might approach the challenges of decolonization.[9]

54. The Special Committee considered the question of Tokelau at its 9th meeting, on 27 June 2007 (see A/AC.109/2007/SR.9). Statements were made at that meeting by the Administrator of Tokelau and the Ulu-o-Tokelau. The representative of Papua New Guinea, on behalf of Fiji and Papua New Guinea, introduced a draft resolution entitled "Question of Tokelau" (A/AC.109/2007/L.15). The Committee adopted the draft resolution without a vote.

B. Special Political and Decolonization Committee (Fourth Committee)

55. At its 2nd meeting, on 8 October 2007, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard statements by the Rapporteur and the Chair of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which they referred to developments in 2007 regarding Tokelau (see A/C.4/62/SR.2). In their statements they commended the Government of New Zealand for its exemplary cooperation with the Special Committee. The representatives also emphasized the value of visiting missions to Non-Self-Governing Territories as an important way of disseminating information on their options for self-determination.

56. At its 23rd meeting, on 14 November 2007, the Fourth Committee heard a statement by the Permanent Representative of Papua New Guinea to the United Nations, who had represented the Special Committee during the October 2007 referendum in Tokelau. He told the Committee that close to 64 per cent of Tokelauans had voted in favour of self-government, falling just short of the two-thirds majority required to achieve that status. Tokelau would now have a period of reflection to consider how to address the concerns of the remaining 36 per cent who had voted "no" in the referendum. At the same meeting, the representative of New Zealand, Tokelau's administering Power, made a statement noting that successive New Zealand Governments had long considered that the people of Tokelau should decide on both the direction and the pace of their political development. The Committee adopted the draft resolution entitled "Question of Tokelau,"[10] as orally revised by its sponsors to reflect the holding of the referendum, without a vote.

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[9] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 23A* (A/61/23/Add.1).

[10] See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 23* (A/62/23), chap. XII, draft resolution V).

C. Action taken by the General Assembly

57. At its 75th meeting, on 17 December 2007, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 62/117 on the question of Tokelau without a vote. On the same date, it also adopted resolution 62/120 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraph 6 of which refers to Tokelau.

VII. Future status of the Territory

A. Position of the administering Power

58. As administering Power for Tokelau, New Zealand has maintained a strong and consistent commitment both to the aspirations of the people of Tokelau and to the principle of self-determination. It has sought consistently to support Tokelau's aspirations to move to full exercise of its right to self-determination. In two referendums on the issue of self-determination, New Zealand has provided all appropriate support for Tokelau's efforts to determine the will of its people for a possible change of status. Successive Administrators and representatives of New Zealand to the United Nations have placed on record before the Special Committee and the Special Political and Decolonization Committee (Fourth Committee) full information about New Zealand's support for Tokelau and its right to self-determination. This attitude towards the needs and aspirations of the people of Tokelau has been favourably acknowledged by these committees on many occasions.

59. The outcomes of the referendums in February 2006 and October 2007, neither of which reached the threshold of support set by Tokelau's General Fono for a change of status, have been acknowledged and accepted by New Zealand. As a follow-up to the most recent referendum result, the Prime Minister of New Zealand has invited Tokelau's leaders, after the January 2008 elections for atoll leadership positions, to meet with her for discussions on the next steps in the New Zealand-Tokelau relationship. The recent approval of the three-year economic support arrangement for Tokelau (see para. 30 above) has also provided Tokelau's people with clear evidence of New Zealand's enduring commitment to their well-being and needs.

B. Position of the people of Tokelau

60. At the 9th meeting of the Special Committee, on 27 June 2007, the Ulu-o-Tokelau, Kuresa Nasau, said that Tokelau's Referendum Commission had decided that the forthcoming referendum was to be held in October 2007, and that the General Fono had decided that the question posed in the 2007 referendum would be the same as that of the 2006 referendum. Again, a two-thirds majority would be needed for the proposal to pass. The Ulu invited the Special Committee to attend the event and gave an account of all the preparations and consultations preceding the vote (see A/AC.109/2007/SR.9). The Ulu spoke of the close cooperation between Tokelau and its administering Power, New Zealand, not least in the area of economic support, and noted that they were currently working towards the finalization of an economic package for the period 2007-2010. The Tokelau International Trust Fund at that point stood at US$ 22 million, thanks to the ongoing

support of New Zealand and other countries. Tokelau's vision for the next three years was to address priority areas such as village development, health, education and transport. The Ulu also mentioned the particular concerns over the impact of global warming and rising sea levels and called upon the international community to take immediate steps to address those issues.

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British Virgin Islands

Working paper prepared by the Secretariat

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I. Background information

1. The British Virgin Islands[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located about 100 kilometres east of Puerto Rico and 25 kilometres from the United States Virgin Islands. The Territory comprises an area of 153 square kilometres, a group of some 50 islands, islets and cays that form an archipelago with the United States Virgin Islands, scattered over some 3,445 square kilometres of sea.[2] Twenty of the islands are inhabited. The capital city, Road Town, is located on the largest island, Tortola. The other major islands are Virgin Gorda, Anegada and Jost Van Dyke. For 2006, the population of the Territory was estimated at 26,787 and for 2007 at 27,518 persons.[3]

2. The earliest known inhabitants of the Territory were the Arawaks and the Caribs, indigenous people of the region. The Dutch established the first permanent European settlement on the islands in 1648. In 1666, British planters took control of the islands and the Territory attained the status of a British colony. The planters were granted civil government, constitutional courts, an elected House of Assembly and a partly nominated Legislative Council, which first met in 1772. In 1872, the islands became part of the Federation of the Leeward Islands. In the 1930s and 1940s, British Virgin islanders demanded greater self-governance, which led to the Territory becoming a separately administered colony in 1956.

II. Constitutional, political and legal issues

3. In 2007, the British Virgin Islands adopted a new Constitution negotiated by the United Kingdom of Great Britain and Northern Ireland and the territorial Government. The new Constitution was negotiated as a result of the 1999 United Kingdom Government White Paper on the relationship between the United Kingdom and its Overseas Territories, entitled "Partnership for progress and prosperity: Britain and the Overseas Territories".[4] The Virgin Islands Constitution Order 2007 was put before the United Kingdom Parliament on 14 June 2007 and came into force on 15 June 2007 in accordance with the Order's section 1(2). This replaces the Virgin Islands Constitution Order that was adopted in 1967 and amended in 1976 and 2000.[5]

4. According to the administering Power, the new Constitution has allowed for significant constitutional advancement. The new Constitution clearly defines the role of the Governor and ensures a role for the Government of the British Virgin Islands in all issues that might directly impact the Territory or its population. This

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[2] See www.thecommonwealth.org, www.redensigngroup.org.

[3] Information provided by the administering Power on 9 January 2008.

[4] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; see A/AC.109/1999/1, annex.

[5] Information provided by the administering Power on 9 January 2008 (see A/AC.109/2007/3); see also www.opsi.gov.uk.

includes the establishment of a National Security Council to advise on internal security and a degree of enabling power for the territorial Government to undertake external affairs on its own behalf. The new Constitution also includes a chapter on human rights, enabling the fundamental rights and freedoms of the individual to be enshrined in the Constitution, and further provides for the separation of the duties of the Attorney General and the Director of Public Prosecution.[5]

5. Responding to questions before the House of Commons Foreign Affairs Committee on 3 December 2007, the Premier commented on the recently completed constitutional review exercise. He recalled that the new constitution had come about as a result of a consultative process, in which both the Territorial authorities and the people of the British Virgin Islands had participated. He pointed out that while certain elements would need "mopping up", they could be addressed "in three or four years by making minor amendments". He strongly emphasized the need for a greater level of consultation with the Territory in the question of the appointment of a Governor, as well as on the matter of ratification of treaties which applied to the Territory. In addition, he cited a need for a reformed judicial and legal commission, as well as for the appointment of a commissioner to review the question of electoral boundaries.[6]

6. As under the previous Constitution, the administering Power appoints a Governor with responsibilities for defence, internal security, external affairs, public service and the administration of the courts; the Governor retains legislative powers as necessary to exercise special responsibilities. In the areas of internal security and external affairs, the new Constitution provides for the territorial Government to have formal input, allowing for greater sharing of these responsibilities.[3] Section 60(1) of the Constitution states that the Governor shall keep the Premier fully informed concerning the general conduct of the aforementioned matters, and that the Premier may request information in respect of any particular matter.[7]

7. The new Constitution provides, under section 47, for the introduction of a cabinet style of Government, reflecting, according to the administering Power, the increased level of autonomy and responsibility resting with the democratically elected representatives. Under the new arrangements, the Executive Council has been replaced by a Cabinet, the Chief Minister replaced by a Premier, and the Legislative Council replaced by a House of Assembly. The Cabinet consists of the Premier (appointed by the Governor from among the elected members of the House of Assembly), four other Ministers (appointed by the Governor on the advice of the Premier) and one ex officio member (the Attorney General). Section 47(3) of the new Constitution states that the Cabinet shall have responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of Government, except those matters for which the Governor has special responsibility under section 60, and the Cabinet shall be collectively responsible to the House of Assembly for such policies and their implementation.

8. Under the new Constitution, the Governor presides at meetings of the Cabinet, while both the Governor and the Premier are entitled to inscribe items on the agenda. The Premier further exercises responsibility for summoning public officers to the Council: section 49(4) states that the Cabinet Secretary, the Governor and the

[6] (See http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaff/uc147-i/uc14702.htm.)

[7] www.opsi.gov.uk.

Premier shall form a Cabinet Steering Group for the purpose of setting the agenda of the Cabinet; the Governor and the Premier shall each be entitled to inscribe items on the agenda and the Cabinet Secretary shall comply accordingly. Section 50(1) states that whenever any business before the Cabinet renders the presence of a public officer desirable, the Premier may summon such public officer to a meeting of the Cabinet; and the Premier shall summon such an officer if the Governor, acting at his or her discretion, so requests.

9. As under the previous Constitution's provision for the Legislative Council, the new House of Assembly consists of a Speaker, the Attorney General as an ex officio member and 13 elected members (9 members from one-member electoral districts and 4 members representing the Territory at large).

10. There are four political parties in the Territory: the Virgin Islands Party (VIP), founded in 1971; the United Party (UP), founded in 1966; the Concerned Citizens' Movement (CCM), founded in 1994 as a successor to the Independent People's Movement; and the National Democratic Party (NDP), founded in 1998. General elections must be held at least once every four years. Candidates are elected based on a simple majority.

11. Persons voting must be 18 years of age or over and have "belonger status", a term which the Constitution applies to a person deemed to belong to the Territory. It is estimated that some 45 per cent of the population has "belonger status", which includes the right to work without a permit and the right to vote. A person has to live and reside continuously in the Territory for 20 years before he or she may apply for permanent residence. After obtaining permanent residence, he or she may apply to become a belonger.[8] The British Overseas Territories Act 2002 granted the right of full British citizenship to all inhabitants of its Territories.

12. In the last general election, held on 20 August 2007, the Virgin Islands Party won 10 of the 13 seats in the House of Assembly and subsequently formed the Government, with Ralph T. O'Neal as Premier. The next general election is scheduled for September 2011.

13. The Governor of the British Virgin Islands, David Pearey, took office on 18 April 2006.

14. The law of the British Virgin Islands comprises common law of England, locally enacted legislation, and imperial legislation. Justice is administered by the Eastern Caribbean Supreme Court, based in Saint Lucia, which consists of two divisions: the High Court of Justice and the Court of Appeal. There are two resident High Court Judges, and a visiting Court of Appeal, which comprises the Chief Justice and two judges of appeal and sits twice a year in the Territory. There is also a Magistrate's Court, which hears prescribed civil and criminal cases, as well as a Juvenile Court and a Court of Summary Jurisdiction. The United Kingdom Privy Council is the final court of appeal.

[8] (See http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaff/uc147-i/uc14702.htm.)

III. Budget

15. The 2007 budget estimates, amounting to $254 million, are still in effect, while the estimates for 2008 were being formulated at the time the present working paper was being prepared. The Government continues to be the responsible steward of public sector finance, first by funding capital expenditures from operating surpluses, where feasible, and also by remaining in compliance with the borrowing guidelines agreed with the Government of the United Kingdom of Great Britain and Northern Ireland. As at mid-December 2007, there was an overall surplus of over $38 million, double the amount at the same time the previous year.[9]

IV. Economic conditions

A. General

16. The economy of the British Virgin Islands is based on tourism and offshore financial services, which contribute approximately half of the gross domestic product (GDP). Since 1959, the legal tender of the British Virgin Islands has been the United States dollar.[3]

17. In 2006, GDP was estimated at $1 billion, representing an estimated increase of 11 per cent over the 2005 amount of $940 million. Tourism and offshore financial services represented approximately 30.7 per cent and 17.9 per cent of GDP, respectively. Per capita GDP was estimated at $36,417 in 2006.[3]

18. It is expected that the GDP will be well over $1 billion by the end of 2007, with supporting sectors such as the construction sector contributing more than $50 million as a result of continued development of infrastructure. According to observed trends, 2007 has been identified as the year marked by the highest ever GDP growth, which shall equal some 12.9 per cent, largely attributable to tourism, financial services and the anticipated commencement of several large investment projects. Other industries which have positively impacted the Territory's economy are construction, fishing, livestock, agriculture and rum production.[10]

19. In June 2007, the Chief Minister said that the territorial Government's plans effective at that time could be expected to help the continued development of the tourism and offshore sectors through strengthening legislation and regulatory controls. The strategy of attracting inward investment while supporting private sector enterprise would also continue.[11]

20. As previously reported, the principal trading partners of the Territory are the United States of America, Puerto Rico, States members of the Caribbean Community (CARICOM) and the United Kingdom. Imports consisted mostly of food, machinery and fuel.[12]

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[9] Information provided by the administering Power on 9 January 2008 (A/AC.109/2007/3, para. 16).

[10] Information provided by the administering Power on 9 January 2008; Chief Minister, State of the Territory Address, 5 June 2007.

[11] Chief Minister, State of the Territory Address, 5 June 2007.

[12] A/AC.109/2007/3.

B. Agriculture, fisheries and shipping

21. Agriculture and fishing currently account for less than 1 per cent of GDP, and most food requirements are met through imports. Around 800 hectares are under cultivation and 4,000 hectares in pasture. The main crops are fruit and vegetables, which are produced both for local consumption and for export to the United States Virgin Islands.[3]

22. The territorial Government's Department of Agriculture has seen an approximate 1 per cent increase in food production in the Territory during the reporting period, especially in bananas, some vegetables and meats. In an effort to improve its services, the Department has focused on various new initiatives, including the provision of subsidy grants to farmers, with special attention given to the pig industry. Other initiatives include improving livestock breeds and supporting the ongoing Farmers' Assistance Programme through which farmers are assisted with farming materials and the marketing of produce. It is expected that new technologies, such as advanced greenhouses will be introduced.[3]

23. The Territory's Fisheries Act of 1997 and Fisheries Regulations of 2003 govern fishing in the British Virgin Islands. Fishing mainly serves the local market. The two main types of fisheries in the Territory are small-scale commercial and recreational fisheries. There is also an offshore longline pelagic fishery with only one longline vessel in operation. Annual total fish landings range from 100 to 300 tons, and reef fish species comprise about 60 per cent of the landings. Commercial fisheries comprise about 250 boats, with the majority of the fishermen owning their fishing gear. Most fishers market their own catch at various places within the Territory, with an appreciable number of them selling their catch directly to hotels and restaurants and a small number to the British Virgin Islands Fishing Company.[3]

C. Tourism

24. Rich vegetation, unspoiled beaches, yachting marinas and fine coral reefs make the British Virgin Islands a natural tourist destination. High-end tourism continues to be the single most important economic sector for the Territory. There were an estimated 888,660 tourist arrivals in 2007, an increase of 7.6 per cent over the previous year. Cruise ship passenger arrivals of 470,801 persons still represent the main category of visitor to the territory, accounting for approximately 53 per cent of total arrivals in 2007. Stopover tourists and excursion visitors accounted for 42 and 5 per cent respectively.[3]

25. Various high-end tourist developments are under way, with a planned increase of over 1,000 hotel rooms over the next seven years, representing new investment valued at over $500 million. At the same time, the Tourist Board of the British Virgin Islands continues its efforts towards improving standards with focused customer training programmes, as well as a new initiative to improve basic physical standards of accommodation facilities.[3]

D. Financial services

26. Since its inception in 2002, the Financial Services Commission has been functioning as an autonomous regulatory authority responsible for the regulation, supervision and inspection of all financial services in and from within the British

Virgin Islands. The British Virgin Islands Business Companies Act of 2006 has helped position the British Virgin Islands as a leader in the registration of corporate structures worldwide. The Financial Services Commission, through the Registry of Corporate Affairs, continues to be one of the major revenue-generating engines in the Territory. There were 65,284 new companies registered in 2006. During the second quarter of 2007, there were 17,803 company incorporations, 28 limited partnership formations and 1,043 dissolutions.[3]

27. Speaking before the House of Commons Foreign Affairs Committee on 3 December 2007 in reply to a question on the regulation of the financial industries, the Premier elaborated on the pertinent arrangements in place in the British Virgin Islands, in particular, the Financial Services Commission, stating, inter alia:

> "The managing director of the Financial Services Commission keeps the Governor informed about how matters are going. The Commission meets once a year with the Cabinet to provide, in addition to the annual report, an update and overview of what is happening and what is likely to happen. We propose now to change that, so that the Commission will meet not only with the Cabinet but with the House of Assembly. It is the House of Assembly which has to pass the laws. Unless it has good insight and understands why things are done, and why laws must be passed, there could be difficulties. For years now, the Legislative Council, as it was formerly called, has gone on record as saying that when it comes to the financial services and legislation, there has been no division at all. It realized the importance of having adequate legislation to support the industry."[13]

E. Construction planning, development and public works

28. Physical planning in the British Virgin Islands is governed by the Physical Planning Act of 2004, under which all development in the Territory requires approval from the territorial Government. During the period under consideration, the Government served 54 compliance notices and had zero cases going before the court. During 2007, 335 development, 157 subdivision and approximately 30 other applications were processed. The territorial plan, determining land use activities and identifying undeveloped areas, is expected to be revised and updated to cover the period 2010-2030.[3]

29. The British Virgin Islands Electricity Corporation completed phase four of its development plan to improve the electricity supply to the Territory by acquiring four new engines that are expected to reduce the likelihood of power failures. There have been challenges associated with maintaining a reliable electricity supply over the past years, but with the installation of these engines there will be over 40 megawatts of capacity available at any time. Normally, 28 megawatts are required.[14]

30. As previously reported, the Water and Sewerage Department of the Territory has about 8,000 customers who are provided water from 10 active reservoirs and

[13] (See http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaff/uc147-i/uc14702.htm.)

[14] Information provided by the administering Power on 9 January 2008; The BVI Beacon, http://bvibeacon.com, 18 December 2007.

8 desalination plants. The plants are owned by three private companies from which the Government buys the water.

F. Transport and communications

31. The British Virgin Islands has over 200 kilometres of surfaced roads. Direct shipping services operate from the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Netherlands. A deepwater harbour exists in Road Town. Regular ferry service links Tortola with some of the other islands and with St. Thomas of the United States Virgin Islands. New docks have been constructed at Anegada, Jost Van Dyke, Trellis Bay and Cane Garden Bay.[15]

32. There are three international airports in the British Virgin Islands, served by 15 airlines. The territorial Government intends to expand air service capacity to Virgin Gorda and inaugurate a new seaplane facility at Gun Creek to allow service to St. Thomas, San Juan and additional destinations.[16]

33. Throughout 2007, the Ministry of Communications and Works engaged in a number of road improvement projects, including the construction of retaining walls in the Ballast Bay area, the reconstruction of the bridge in Road Town between the Sunday Morning Well and the Band Stand, as well as the Carrot Bay Bridge. Improvement of drainage systems has involved the cleaning and installation of drainage structures in Duff's Bottom, Sea Cow's Bay, Greenland and Road Town, partially with the help of the Disaster and Risk Reduction Programme of the Organization of Eastern Caribbean States.[3]

34. The British company Cable & Wireless, along with the only mobile provider in the British Virgin Islands, CCT Global Communications, have signed an interconnection agreement Memorandum of understanding. The understanding is considered the final milestone prior to the anticipated liberalization of the telecommunications market. For its part, the Caribbean mobile operator Digicel announced that it has been granted a mobile licence to operate in the Territory.[3]

V. Social conditions

A. General

35. Financial assistance is provided for those who need it through the Social Security Board, a statutory body that falls under the Ministry of Finance. It provides for sickness and maternity benefits, as well as pensions. According to the administering Power, the Social Development Department also provides grants and other assistance to persons who are in need of assistance through the Public assistance committee. This is a nine-member committee which is appointed by the Cabinet. Other programmes that are administered by the Social Development Department include Elderly and disability services, Family and children services, Rainbow children's home, Social and legal aid, and Community development. Work

[15] Chief Minister, State of the Territory Address, 5 June 2007.

[16] Chief Minister, State of the Territory Address, 5 June 2007 (see www.caribbeannetnews.com) 4 January 2008.

on a social services centre in Cane Garden Bay is expected to be completed by the end of March 2008.[3]

36. According to the territorial Government, social security pensions have been increased for all persons 65 years and older, and the eligibility for pension benefits has been extended to workers who are paid by the day.[17]

B. Labour

37. The labour force of 16,939 workers (2006) is mostly engaged in Government employment (31.2 per cent), tourism (15.4 per cent) and construction (8.4 per cent). According to the Government Development Planning Unit, the unemployment rate in the British Virgin Islands was 3.1 per cent for 2006.[3]

C. Education

38. Education is free and compulsory in the British Virgin Islands for children between the ages of 5 and 16 years. There are 18 public and 11 private primary schools in the Territory, on Tortola, Anegada, Virgin Gorda and Jost Van Dyke. Secondary education, "A" level (from 12 to 16 years), is also free. There are seven high schools, four private and three public. The community college at Paraquita Bay, the H. Lavity Stoutt Community College, has begun offering free tuition.[3]

39. Under the national curriculum project, substantial modernization of the educational system is ongoing. Language arts, mathematics and integrated science materials are currently being field-tested and the educational standards for the remaining subjects are to be elaborated. An implementation plan for the curricula for mathematics, language arts and integrated science is expected to be designed in 2008. Field testing for social science, arts (music and fine arts) and physical education will begin during the 2008-2009 school year. Major steps in education include the increase by 50 per cent of British Virgin Islands scholarship grants for higher degrees abroad and the supply of new computers to every school in the Territory.[3]

D. Public health

40. The Territory's Health Services Authority, an autonomous corporate body, was established in 2005, when the British Virgin Islands Health Services Act was passed, to manage all public health-care delivery services. According to the administering Power, the territorial Government still continues to be the major funding source for the Authority. At the same time, the British Virgin Islands Health Services Authority has made a concerted effort to improve its revenue generation and collection, to facilitate a transition from almost total reliance on Government funding towards functioning as an autonomous body with no or limited public funds.[18]

41. In accordance with the 1976 Public Health Act, which is the statutory framework for protecting and promoting the population's health, Government health

[17] Chief Minister, State of the Territory Address, 5 June 2007.

[18] (See A/AC.109/2007/3.)

services are provided free at the point of use to certain groups, such as full-time schoolchildren, nursing mothers, the elderly, the mentally ill, health workers, firefighters, the police, prisoners and prison officers. The territorial Government has begun efforts to establish a national health insurance programme. [19]

42. Currently there are 58 physicians and 9 dentists actively practising in the Territory, of whom 31 physicians and 2 dentists are employed in the public sector, and 27 physicians and 7 dentists in the private sector. The Territory has one 44-bed public hospital (Peebles Hospital), one referral health centre at Road Town and a network of 10 district clinics, as well as two health posts. Private health care is provided by one hospital (Bougainvillea Clinic), three dental surgeries, and four medical complexes, of which three are located on Tortola and one on Virgin Gorda.

43. During 2005-2006, the construction of the hospital annex was completed and the first CAT scan machine was installed with the support of the Social Security Board. In 2007, a helipad in Road Town was completed for medical transport purposes and has become fully functional. A $63.9 million contract to build a new public hospital was signed in January 2007[20] and the contractor mobilized on-site in early March 2007. The new 128-bed hospital facility is being constructed behind the existing hospital and will connect to the hospital annex.[21]

44. At the end of November 2007, 85 AIDS-infected persons had been reported to the Ministry of Health and Social Development of whom 27 have died. There are 58 persons between the ages of 20 and 67 years residing in the British Virgin Islands who are reported to be HIV-infected. The Annual National Summit for Youth on HIV-AIDS, which started in 2004, reportedly continues to be a meaningful initiative for secondary level students. There has been significant improvement in the surveillance of HIV throughout the public and private health sectors, which helps to provide baseline data and to improve monitoring of the disease.[3]

E. Crime, security and public safety

45. During the early 2000s, the increased level of crime in the Territory became a matter of concern and was brought to the attention of the Legislative Council. The subsequent discussion brought to light the inadequacy of the legal framework, law enforcement and criminal justice system in the Territory, concerns which are gradually being addressed, including personnel and other changes at the Royal Virgin Islands Police Force, as previously reported.[22]

46. According to the administering Power, problems associated with drug trafficking are potentially the most serious threat to stability in the British Virgin Islands. The Territory is a major target for traffickers due to its numerous small uninhabited islands. The United Kingdom of Great Britain and Northern Ireland has provided a police launch, and jointly funds with the territorial Government a number of British personnel, as well as anti-narcotics equipment to assist in

[19] Chief Minister, State of the Territory Address, 5 June 2007.

[20] Information transmitted by the administering Power, 15 January 2007; see also www.caribbeannetnews.com, 19 and 24 January 2007.

[21] Information provided by the administering Power on 9 January 2008; Chief Minister, State of the Territory Address, 5 June 2007.

[22] A/AC.109/2007/3.

combating drug offences. The British Virgin Islands has a Mutual Legal Assistance Treaty with the United States and close cooperation with their law enforcement agencies. The Territory's legislation on money-laundering covers all crimes, not just drug-related crimes.[23]

47. Furthermore, fishing in the British Virgin Islands territorial waters by fishermen from nearby islands has created conflicts from time to time. Sports fishing in the British Virgin Islands continues to be a major attraction for many tourists, as well as for neighbouring fishermen. A maritime demarcation boundary line between the British Virgin Islands and the United States Virgin Islands was established between the United Kingdom of Great Britain and Northern Ireland and United States in 1975.[24]

48. The Director of the recently launched Virgin Islands Shipping Registry confirmed that the Government of the British Virgin Islands is committed to ensuring that ship and company security officers in the Territory are accredited in accordance with the International Ship and Port Facility Security Code.[25]

VI. Environment

49. Soil erosion and sedimentation of the marine environment remain a major problem affecting the marine and terrestrial environment in the British Virgin Islands. The environmental impact assessment requirement under the Physical Planning Act of 2004 was applied to several development applications during the reporting period. Major projects included in the process were Scrub Island Development; Mooring Expansion Project; Lambert Beach Development; and Sandcastle Development. In addition to an initial public hearing, the developers were brought together with Government officials quarterly to report on project compliance.[3]

50. The British Virgin Islands has acceded to several global multilateral environmental agreements, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Biological Diversity, and the Ramsar Wetlands Convention. The Convention on International Trade in Endangered Species of Wild Fauna and Flora has been incorporated into local enabling legislation, but the other environmental conventions and treaties remain only as agreed instruments. In order to address this concern, a comprehensive environment and conservation of biodiversity bill is under preparation with assistance from the United Nations Environment Programme and is expected to be subject to review and possible enactment in 2008.[3]

51. Recognizing that global climate change might have a significant potential impact, the British Virgin Islands participated in several regional meetings in 2006 and 2007 to help plan to reduce the related risks and impacts, as well as to access funds and resources, including in the areas of capacity-building and information-sharing.[3]

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[23] BVI profile, www.fco.gov.uk.

[24] Information provided by the administering Power on 9 January 2008; www.caribbeannetnews.com, 7 November 2007.

[25] www.caribbeannetnews.com, 10 January 2008.

VII. Relations with international organizations and partners

A. United Nations system

52. The British Virgin Islands has associate membership in the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Economic Commission for Latin America and the Caribbean. The National Commission for UNESCO collaborates with UNESCO in the areas of institution- and capacity-building. A Caribbean-wide catastrophe insurance pool established by the World Bank has acquired $47 million in funds to assist the Caribbean, including the British Virgin Islands, in the event of a hurricane or earthquake.[26]

53. The United Kingdom of Great Britain and Northern Ireland and those Overseas Territories represented at the 2007 Consultative Council, including the British Virgin Islands, agreed to extend the United Nations Convention Against Corruption to all the Overseas Territories at the earliest opportunity. They also set a date of June 2008 for the extension of ILO Convention 182 on the Worst Forms of Child Labour, and December 2008 for the extension of the Convention on the Elimination of All Forms of Discrimination against Women to all the Overseas Territories.[27]

B. Regional organizations and other partners

54. The Territory is an associate member of CARICOM and the Organization of Eastern Caribbean States. The Territory is a borrowing member of the Caribbean Development Bank.

55. As a Non-Self-Governing Territory of the United Kingdom, the British Virgin Islands is associated with the European Union (EU) but is not a part of it.[28] The Territory is a signatory of agreements that provide for development assistance from the EU, on the basis of performance-based partnerships.

56. The territorial Government's International Affairs Secretariat coordinates efforts to strengthen the Territory's relationship with "British Virgin Islands Friends". Also, the question of the continued functioning of the Inter Virgin Islands Council was addressed during the visit of Governor John P. DeJongh of the United States Virgin Islands to the British Virgin Islands on 15 March 2007, when he underscored his commitment to seeing the Council continue to perform its vital role of addressing issues that are of concern to the two Territories. During a meeting with the Chief Minister, several areas of mutual interest and benefit for continued cooperation were identified.[29]

57. At a conference of the International Organization of Securities Commissions held in 2007, the British Virgin Islands Financial Services Commission was welcomed as an ordinary member in recognition of its international cooperation

[26] UPI, 27 February 2007.
[27] www.fco.gov.uk, press release, 6 December 2007.
[28] See European Union publication entitled "Caribbean Economic Partnership Agreement", 2006.
[29] http://www.governordejongh.com/news/archive/2007/03/031506-2.html.

framework and its long-standing commitment to comply fully with international standards.[30]

VIII. Future status of the Territory

A. Position of the territorial Government

58. The position of the territorial Government regarding the future status of the British Virgin Islands is reflected under section II on constitutional issues.

B. Position of the administering Power

59. In a statement made on 11 October 2007 before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-second session of the General Assembly, the representative of the United Kingdom said, inter alia, that "her Government, as administering Power for ten Non-Self-Governing Territories, gave every help and encouragement to those Territories which wished to proceed to independence, where that was an option. Her Government and its overseas territories continued to work towards the shared goals of security, stability and sustainable political and economic development, democracy, good governance and the rule of law. ... Her Government carefully considered all proposals for constitutional change received from the Territories."[31]

60. As previously reported,[32] in a statement made on 24 April 2006, the United Kingdom Overseas Territories Minister took stock of the relationship between the United Kingdom and the Overseas Territories seven years on from the 1999 White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories".[33] An elaboration of the position of the United Kingdom of Great Britain and Northern Ireland on alternative forms of relationship, as set out in General Assembly resolution 1541 (XV), has been previously provided.[34]

C. Action by the General Assembly

61. On 17 December 2007, the General Assembly adopted without a vote resolutions 62/118 A and B, section IV of which concerns the British Virgin Islands. Under that section's operative paragraphs, the General Assembly:

> "1. *Welcomes* the negotiations on constitutional advancement and balance of authority between the administering Power and the territorial Government during 2006-2007 resulting in the draft constitution that was unanimously passed by the Legislative Council of the Territory in May 2007;

[30] BVI Financial Services Commission, press release, 13 April 2007.
[31] A/C.4/62/SR.5.
[32] A/AC.109/2007/3.
[33] (See A/AC.109/1999/1, annex.)
[34] A/AC.109/2007/3.

"2. *Also welcomes* the efforts made by the territorial Government to focus the economic base of the Territory more on local ownership and on professional service industries other than financial services;

"3. *Further welcomes* the ongoing work of the Inter-Virgin Islands Council between the elected Governments of the British Virgin Islands and the United States Virgin Islands as a mechanism for functional cooperation between the two neighbouring Territories;".

United Nations A/AC.109/2008/3

General Assembly

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

American Samoa

Working paper prepared by the Secretariat

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I. General

1. American Samoa is a Non-Self-Governing Territory administered by the United States of America under the Department of the Interior, which has a representative resident on the ground. The Territory is located in the South Pacific approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands namely Tutuila, Aunuu, Ofu, Olosega and Tau, known as the Manu'a Islands, and Swains and Rose, two coral atolls, as well as several lesser islands. The total land area is 197 square kilometres, about 70 per cent of which is covered by dense forest. Tutuila, where Pago Pago, the capital, is located, is the largest island; it constitutes 70 per cent of the total land area and is home to 99 per cent of the population.

2. For 2007, the population of American Samoa was estimated to be 68,900, with a median age of -21 and an estimated sex ratio of 1.06 males per female. The estimated net migration rate is approximately -21 per thousand population.[1] As previously reported, some 70,000 Samoans live outside the Territory.

3. Ethnically, the population is 89 per cent Samoan/Polynesian. Congregationalist Protestant denominations are practised by 80 per cent of the people, and some 20 per cent are Roman Catholic. Most American Samoans are bilingual, speaking the native Polynesian tongue and English.

II. Constitutional, legal and political issues

4. It is generally believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to find these islands, in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial Powers of Germany, Great Britain and the United States of America led to a period of instability. Deeds of cession of these islands to the United States stemming from the early 1900s were formally accepted by means of an Act of Congress on 20 February 1929. Pursuant to that Act, the native inhabitants were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. As the American interest in the area had been mainly military, the Territory was placed under the jurisdiction of the United States Navy. In 1951, the United States President Executive Order 10264 transferred administrative responsibility for the Territory to the Department of the Interior.

5. American Samoa is an "unincorporated and unorganized" Territory under United States law. Not all provisions of the United States Constitution apply. Residents of American Samoa are not United States citizens. They are United States nationals who can freely enter the United States and work or reside anywhere they choose. Children born in the Territory to foreign parents become citizens of either

Note: The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Information provided by the administering Power, on 15 January 2008.

the mother's or the father's country of origin, not United States nationals. American Samoans may not vote in the United States general elections, but are permitted to participate in presidential primaries and caucuses.

6. The Constitution of American Samoa, adopted in 1960, was revised in 1967 and subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an Act of the United States Congress.

7. The Territory's Constitution provides for separate executive and legislative branches and an independent judiciary. The executive branch comprises a Governor and a Lieutenant-Governor elected for four-year terms by universal adult suffrage. All American Samoans over 18 years of age are eligible to vote. The Governor is responsible for executing both American Samoan and United States laws and has veto power with respect to legislation passed by the Fono, the American Samoa Legislature.

8. In 1977, the people of American Samoa for the first time elected the Governor. The current Governor, Togiola T. A. Tulafano was elected in 2004. Ipulasi A. Sunia was elected Lieutenant-Governor at the same time. These terms of office will expire in November 2008, when the next elections are due to be held. In September 2007, Lieutenant-Governor Sunia was taken into custody by the FBI, and later released, in connection with contracts related to the Territory's Department of Education. Pending further legal action, Mr. Sunia, who entered a "not guilty" plea in federal court in Washington, D.C., continues to serve as Lieutenant-Governor.[2]

9. The Fono is a bicameral legislature, which is comprised of an 18-member Senate whose members are chosen by 14 tribal councils, and a 21-member House of Representatives, 20 of whom are elected by popular vote and one of whom is appointed as a non-voting delegate from Swains Island. Only a "matai", the traditional chief of an extended family, can become a senator. Senators hold office for a four-year term and representatives for a two-year term. The Fono may pass laws with respect to all local affairs, provided they are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements.

10. Since 1981, American Samoa has elected by direct vote a delegate to the United States House of Representatives for a two-year term. The delegate may vote only in committees. The current delegate, Congressman Eni F. H. Faleomavaega, was re-elected for a tenth consecutive two-year term in November 2006.

11. The judiciary system consists of the High Court, with the Chief Justice and the Associate Justices appointed by the United States Secretary of the Interior, and the local district and village courts, with the judges appointed by the Governor. The High Court is separated into Appellate, Trial and Land and Titles divisions. Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court to a federal district court. American Samoa laws are textually identical to United States laws ("mirror laws"), where all references to the United States are substituted by references to American Samoa.

[2] *Samoa News*, 10 September and 24 October 2007 and 5 January 2008.

12. In order to study alternative forms of political status practices in the Territory's relationship with the United States, the Future Political Status Study Commission was established in 2006 under the Territory's Public Law 29-6, amended by Public Law 29-24 and Public Law 29-25. The Commission's final report, written in both English and Samoan, was submitted to the Governor, President of the Senate, Speaker of the House of Representatives and the Chief Justice of the High Court on 31 December 2006. Copies of the final report were made available to the public in January 2007, including on the Internet.[3] The ultimate decision on status is to be made by the people of American Samoa.[1]

13. In drawing up its findings and 27 recommendations, the Commission was cognizant of the views of the general public of American Samoa. It found that "the Samoan public, from leaders to the rank and file, both on and off-island, overwhelmingly emphasized two major points: (a) American Samoa must remain part of the American family of states and territories; and (b) be certain that a chosen status will not adversely affect customs and culture, and the perpetuation of the Samoan language".[4]

14. Among its conclusions, the Commission highlighted as its "main recommendation" that "American Samoa shall continue as unorganized and unincorporated territory and that a process of negotiation with the U.S. Congress for a permanent political status be initiated".[5] In that connection, and flagging the issue as "the most important finding of the Commission study", the report noted that a specially tailored Act of Congress would be needed to reaffirm the special protective provisions for lands and titles in the Constitution of American Samoa and that such an Act could be passed without changing the present political status.[5]

15. Under a section entitled "Public concerns", the report made the following recommendation with regard to "United Nations and the colony designation": "The Commission has determined that American Samoa's designation by the United Nations as a non-self-governing territory is inconsequential in determining any future political status, and recommends that the Territory move forward regardless of the U.N. designation". On the question of "Public education on political status", the Commission went on to say that it had discovered during its recent study a need to increase public awareness of political status and related issues. Inasmuch as the final decision on a political status rested with the people, the Commission found that it was imperative that they should be well informed. The Commission therefore recommended that "the American Samoa Government develop a public awareness programme on the political status of the territory."[6]

16. At a public hearing on the Commission's report held by the Fono on 15 November 2007, according to local media there was strong support for the recommendation that American Samoa maintain its current political relationship with the United States. Also, the more than 60 people attending the hearing called for local leaders to move on the report's recommendation that a process of negotiation be initiated with the United States Congress for a permanent political status. One speaker believed that the best way to expedite a future form of government was to put the matter of future status to a referendum during the 2008

[3] http://www.americansamoa.gov.

[4] Report on the Future Political Status Study Commission of American Samoa, p. 42, http://www.americansamoa.gov/fpssc/fpssc_text.pdf.

[5] Ibid., p. 43.

[6] Ibid., p. 58.

general election. It was clear from the opinions voiced at the four-hour hearing that independence was not an option sought by those who participated. At the end of the hearing, it was recommended that the Commission carry out an education programme to explain their report to the public before the Governor convoked a constitutional convention.[7]

17. It was later indicated in the local media that the Governor was expected to call a public forum to gather information on the status question.[8]

18. On 14 January 2008, in its State of the Territory Address before the 30th Legislature, the territorial Government indicated that "the Commission's recommendations have been forwarded to the Fono, and we eagerly await their response. In preparation for a constitutional convention, we strongly encourage the people of American Samoa to examine the Commission's report, which is available at www.americansamoa.gov, and decide what they think is best for American Samoa".[9]

III. Budget

19. The budget of the Government of American Samoa consists of federal support and locally generated revenue. In the Territory's traditional communal system, leaders are responsible for the preservation of the social order as well as the economic welfare of the extended family. The federal Government underwrites most of the cost of preserving this system. This affiliation contributes to allowing the United States to have access to and use the Territory for defence and other purposes. American Samoa continues to be the only United States Territory that receives grants-in-aid, amounting to about $23 million per year, from the Department of the Interior for government operations.[10]

20. The budget of the territorial Government for the fiscal year 2008, which started on 1 October 2007, is $304 million, as approved by the Fono.[11] In January 2008, the territorial Government stated that the Territory had "ended the 2007 fiscal year in the black. ASG departments and branches worked very hard within very confined budgets this past year".[9]

IV. Economic conditions

A. General

21. American Samoa's gross domestic product (GDP) for 2005 was estimated at $333 million and per capita GDP at $5,800, which is considered a valid estimate for 2007.[12]

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[7] *Samoa News*, 16 November 2007.

[8] Ibid., 5 January 2008.

[9] State of the Territory Address, 14 January 2008.

[10] *Samoa News*, 16 November 2007.

[11] Ibid., 26 September 2007.

[12] Information provided by the administering Power, 15 January 2008; http://www.indexmundi.com/american_samoa/gdp_per_capita_(ppp).html.

22. According to the territorial Government, economic data indicated that 2007 was a time of financial hardship. Cost of living increased by 7 per cent in the fourth quarter compared to 4.4 per cent in the third quarter. This increase was mainly the result of increased fuel costs. Housing costs increased by 6 per cent owing to higher utility costs, while the cost of food increased by 10 per cent in the fourth quarter. Furthermore, according to the territorial Government, the minimum wage increased, contributing to higher prices. At the same time, a new Territorial General Plan provided the territorial Government with a consolidated economic and social development strategy for American Samoa as well as guidance for the development of all sectors of Government and the economy. Moreover, the Governor established an Economic Advisory Council to serve as a mechanism for private sector input on economic development policies, involving issues such as tax reform, immigration and business licensing.[13]

23. Over 90 per cent of American Samoa's economy is maintained by United States federal expenditures and the canning industry. Tuna fishing and processing are the backbone of the private sector. Approximately 7 per cent of the economy comprises a small tourism industry and a few businesses that sell exclusively to the local market.

24. American Samoa's largest trading partner is the United States, followed by New Zealand, Australia and Fiji. Canned tuna accounts for almost 100 per cent of exports. American Samoa imports some 90 per cent of goods and products, including food and petroleum products, machine parts, building materials, textiles and clothing.

B. Agriculture and fisheries

25. According to the territorial Government, the total value of agricultural production was a little over $58 million in 2007, with $36 million for family consumption and $22 million for commercial sales.[9]

26. Agriculture, hunting and forestry employ less than 3 per cent of the population and provide little surplus for export. The most important crops include taro, coconuts, bananas, oranges, papayas, breadfruit and yams. According to the Territory's Department of Agriculture, at present, the Territory covers 95 per cent of its food needs through imports. Prospects for agricultural development are limited owing to the small amount of land suitable for cultivation.

27. The fishing industry constitutes some 90 per cent of the Territory's private sector economy. According to a recent report, in 2006 the tuna canning industry in American Samoa provided direct employment for over 4,600 workers.[14] The future viability of the industry in the Territory continues to be seen to depend largely on tax exemptions and competitive wage scales.[15] Under the Temporary Tax Relief Act of 2007, the United States Congress provided a one-year extension of the Internal Revenue Service's 30A tax credits for American Samoa's canneries.[16]

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[13] State of the Territory Address, 14 January 2008; *Samoa News*, 5 January 2008.

[14] United States Department of Labor, "The Minimum Wage in American Samoa, 2007", May 2007, http://www.asdoc.info/DOC_Stats/EconomicReport-2007.pdf.

[15] *Samoa News*, 28 February 2007.

[16] See A/AC.109/2007/15; *Samoa News*, 30 November 2007.

C. Tourism

28. American Samoa has begun preparations to host the 2008 Pacific Arts Festival from 20 July to 2 August; to assist American Samoa in its efforts, the Office of Insular Affairs provided a grant of $339,000. The funds are to be used for personnel, travel, marketing and promotion.[1]

29. In 2007, nine cruise ships with more than 16,000 passengers and crew visited American Samoa, more than double the 2005 figure, further increasing short-term seasonal employment and opportunities for sales of local arts and handicrafts, as land-based tourism remains limited.[17] American Samoa has several hotels and motels with a total of 260 rooms in Tutuila and Manu'a.

30. According to the territorial Government, it intends to submit in 2008 a legislative proposal to make American Samoa's Tourism Department a semi-independent agency. This was expected to give the Territory's private sector a greater role in the development of local tourism.[9] As previously reported, American Samoa seeks to privatize tourism that is community responsive.

D. Transport and communications

31. There are approximately 180 kilometres of public and primary paved roads and 235 kilometres of secondary village roads in American Samoa. The highway system is generally in poor condition owing to the effects of hurricanes, the age of the roads and inadequate maintenance. According to the territorial Government, various infrastructure projects were under way at the beginning of 2008, including the resurfacing of the Avau-Airport Junction ($1.6 million); the Vatia shoreline protection project, the Aoa, Iliili, Masefau, Taputimu, Aua-Afono-Fagaitua roadworks as well as the Fagasa landslide restoration, and drainage projects (together totalling $14.5 million); and the Bay Area road project ($8.3 million).[9]

32. Pago Pago harbour is an all-weather deep-draught harbour, one of the best natural deepwater harbours in the South Pacific Ocean and is of strategic importance in the region. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-ton marine railway.

33. There are four airports in the Territory situated on the islands of Tutuila, Ofu, Olosega and Ta'u. Pago Pago International Airport is owned and operated by the territorial Government. The Territory's main airport is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Within the Territory, Inter-Island Airways flies regularly to the islands of Ofu, Olosega and Ta'u. The International Airport's $6.8 million runway project has been recently completed.[9] The Governor has signed an agreement with the United States Federal Aviation Administration, called the Other Transaction Agreement, in order to use close to $2 million from the federal Government to build an air traffic control tower for the airport.[18]

[17] *Samoa News*, 13 December 2007.
[18] Ibid., 4 October 2007.

34. The Territory has four radio stations; a Government-owned and a privately owned television station, three privately owned newspapers and a private company offering telecommunications services. Internet access is provided by the American Samoa Telecommunications Authority, a semi-autonomous government agency.[19]

35. In early 2007, the territorial Government stated that competition in the telecommunication sector had resulted in the lowest rate for wireless communication and Internet that the Territory had ever seen.

36. The budget of the Office of Insular Affairs for fiscal year 2008 includes $3 million for the American Samoa Capital Improvement Project programme to help to develop a fibre-optic cable for American Samoa.[20]

E. Water, sanitation system and utilities

37. The American Samoa Power Authority, which is Government-owned, provides water, wastewater, solid-waste and electric services to customers on five of the seven islands. The Authority provides drinking water to 90 per cent of the Territory from 57 wells, with the remaining part being serviced by outer-village systems. According to the administrating Power, the American Samoa Power Authority continued to provide reliable and cost-effective utility services for the Territory. In 2007, the Power Authority announced a plan and timetable to improve the Bay Area's water pressure as a major focus for 2008. The plan takes into account a variety of solutions, including expanding transmission lines, adding new wells, and increasing storage capacity.[21]

V. Social conditions

A. General

38. Long before the 1700s, when the Western world first came to know of the Samoan Islands, their inhabitants practised a way of life that had been handed down through the generations for more than 2,000 years. Known as "fa'asamoa", the Samoan way of life is based on the notion of mutual respect and sharing among the "aiga" or extended families, each featuring a common allegiance to a matai, and influences every aspect of the Territory's socio-economic fabric. As mentioned in section III of the present working paper, the traditional communal system prevalent in American Samoa is considered to contribute to preserving the Territory's social cohesion and promoting economic welfare.

B. Labour and immigration

39. The Territory's unemployment rate, as previously reported (A/AC.109/2007/15), is estimated by different sources to range from 12 per cent to almost 30 per cent (2005-2006) reflecting a turn for the worse over the past half decade or

[19] http://www.malama.tv, 22 March 2007.

[20] Information provided by the administering Power, 15 January 2008; *Samoa News*, 5 January 2008.

[21] *Samoa News*, 24 November 2007.

so. As for labour force participation rates, available published statistics in 2000 estimated the figure at 52 per cent.[22] In 2006, the total labour force consisted of over 17,600 workers, about one third of whom were aliens, mostly from the Independent State of Samoa. The largest private employer was the cannery industry, which employed almost one third of the workforce. The territorial Government had approximately 5,900 persons on the payroll. The remaining workforce was employed in the secondary economy, which provided goods and services to the canneries and consists mainly of retail and service enterprises.

40. As of May 2007, hourly wages were as follows: Government employees, $2.91; fisheries, $3.26; and shipping and transportation, $4.09.[14] Wages in the Territory are set not by federal law but by the recommendation of the Special Industry Committee, appointed by the United States Department of Labor, that reviews economic conditions every two years and establishes minimum wages by industry under the Fair Labor Standards Act.

41. The next review by the Special Industry Committee was scheduled for June 2007.[23] However, on 25 May 2007, the United States President signed into law a provision that raised the American Samoa minimum wage by 50 cents for all industry classifications (Public Law 110-28), with an automatic increase, or escalator clauses, of 50 cents per hour every year until 2014. The law took effect on 24 July 2007 and, a second increase was expected to take effect approximately one year later in 2008. Furthermore, the law called for the United States Department of Labor to complete, not later than 25 January 2008, a study of the likely impact of the wage increases on the Territory. Upon the release of the study in January 2008, Congressman Faleomavaega stated that the Department's report clearly showed that automatic increases would be harmful to the economy of American Samoa.[24]

42. In June 2007, the Office of Insular Affairs awarded to the American Samoa Government a grant for $188,000 to conduct a labour pool survey. The University of Hawaii was contracted to conduct the study which was launched in July 2007. The purpose of the study is to help American Samoa and private investors to determine whether there are a sufficient number of qualified employees on island to support a call centre business or other industries. The report is expected to be completed in 2008.[1]

43. As previously reported, American Samoa has its own immigration laws, and entry conditions into the Territory by foreigners are not the same as those applicable for the United States. In 2003, a new Immigration Law of American Samoa came into force, giving the Attorney General, instead of a Government-appointed board, full authority over granting eligibility. That change allowed many individuals who reside in the Territory for a long period to acquire permanent resident status (A/AC.109/2007/15).

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[22] Report of the United States Department of Labour, 8 February 2008, http://www.dol.gov/esa/whd/AS/sec2.htm.

[23] *Samoa News*, 5 and 9 February 2007.

[24] Information provided by the administering Power, 15 January 2008; http://www.house.gov/list/press/as00_faleomavaega/dolreport.html.

C. Education

44. Education in American Samoa is compulsory from 6 to 18 years of age. The educational system is broadly based on that of the United States. There are 29 public schools, 6 private schools and 161 village schools. The American Samoa Community College offers two-year degree courses in arts and sciences and certificate programmes of proficiency in vocational and clerical skills, business and nursing and affords enrolled students scholarship and financial aid opportunities. San Diego State University offers bachelor's and master's degree programmes in Tutuila, which enable students to obtain an advanced college degree without moving from the Territory. American Samoa has a literacy rate of approximately 97 per cent.

45. During 2007, 53 teachers earned Bachelor of Arts degrees in Elementary Education and further 75 pursue their Bachelor of Arts degrees at the University of Hawaii. Moreover, 26 students were pursuing San Diego State University's Master's programme in Leadership and Counselling; a programme in accounting was offered locally in the month of January 2008 in partnership with Chaminade University of Honolulu; and a course in law enforcement was set to begin in 2008. The Territory's Department of Education developed English as well as Samoan Language Proficiency Standards as part of the Territory's educational standards. New buildings were constructed at the Tafuna High and Elementary Schools and the Nuuuli-Vocational-Technical School. In the area of trades and technology training, the Board of Higher Education reclassified the Trades and Industry Department into the Institute of Trades and Technology to enhance and prepare a workforce in the area of computer technology, automotive repair and other areas of the public and private sectors.[9]

46. On 14 January 2008, the territorial Government announced that it was sending to the Fono a proposal for a teacher reclassification bill. The Government expressed its hope and intent that teachers in the Territory would be paid fair value for the service they provided.[9]

D. Public health

47. The 2007 estimate for life expectancy in the Territory was 76 years (73 for males, 80 for females). Per 1,000 population, the annual birth rate was estimated at 22, and the annual death rate at 3. The fertility rate was estimated at three children per woman.[25]

48. According to information provided by World Health Organization (WHO), good progress has been made in American Samoa's primary health care in recent years. Water supplies and sanitation systems were well organized and maintained, and 99.9 per cent of the population had access to safe water. However, solid waste disposal was still a problem. Morbidity patterns had also changed with modernization and lifestyle changes, from infectious diseases to non-communicable diseases.[26] In order to help to tackle problems of obesity, the territorial Government's Department of Education implemented a comprehensive health programme at the elementary level to strengthen physical education. On

[25] https://www.cia.gov/library/publications/the-world-factbook/geos/aq.html.

[26] WHO Samoa Office, 13 January 2008.

25 September 2007, the Governor signed a new Public Health Law for American Samoa and the American Samoa Emergency Health Powers Act empowering the Health Department to respond to threat of avian flu, natural and man-made disasters and other emergencies that might befall the Territory, in addition to its day-to-day powers and responsibilities.[27]

49. The final report for the Coverage for All in American Samoa project was submitted to Lieutenant-Governor Sunia on 29 September 2007. The report reviewed the Territory's health-care system and informed stakeholders and policymakers about health insurance coverage options and reform initiatives to improve access to affordable health care for all residents in American Samoa.[1]

50. The main, semi-autonomous public hospital in the Territory, the Lyndon Baines Johnson Tropical Medical Center, has 150 beds and a staff of 25 physicians. The Medical Center became a smoke-free facility in November 2007. Medical, dental and pharmaceutical services in the Territory are available 24 hours a day. For serious cases, off-island treatment, including hospitalization in Hawaii, United States mainland or New Zealand is provided.[20] In December 2007, the territorial Government leadership opened the newly renovated $1.7 million paediatric clinic at the Medical Center, dedicating a federally approved ward that caters to the Territory's children.[28] According to information released by Federal Communications Commission on 19 November 2007, the Medical Center would benefit from a federal grant of more than $4 million awarded to a Hawaii consortium to build a broadband "telehealth" network, linking health-care providers in Hawaii and United States territories under a rural health-care pilot programme.[29]

E. Crime

51. The territorial Government announced that, depending on the availability of funds, the Territory's Department of Public Safety would establish another Police Academy in addition to the one completed in 2007, which provided for the first addition of officers in 10 years. The recruitment of 55 cadets brought the number of police officers in American Samoa to 170.[30]

52. Regarding judicial matters, on 19 July 2006, the Chairman of the United States House Committee on Natural Resources requested the Government Accountability Office (GAO) to conduct a comprehensive review of the judiciary system in American Samoa. A four-person GAO team visited American Samoa from 14 to 20 October 2007. They conducted interviews with Government officials and members of the business community, and held two public forums, one at the Office of Samoan Affairs and the other at the American Samoa Community College.[1] Public opinion was reportedly split on whether or not a United States federal court should be established in American Samoa. The review's findings are expected to be released later in 2008.[31]

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[27] *Samoa News*, 29 September 2007.

[28] Information provided by the administering Power on 15 January 2008; *Samoa News*, 15 December 2007.

[29] *Samoa News*, 27 November 2007.

[30] http://www.pacificmagazine.net/news/2007/07/09/american-samoa-gets-new-police-recruits.

[31] *Samoa News*, 19 October 2007 and 5 January 2008; also A/AC.109/2007/15, paras. 12 and 59.

VI. Environmental protection and disaster preparedness

53. In 2007, American Samoa saw many initiatives dedicated to the conservation and protection of the Territory's environment. Collaboration between agencies, businesses, and community groups has resulted in the development of important programmes, increased public awareness and appreciation of the Territory's natural environment. The Territory hosted the 18th United States Coral Reef Task Force meeting in August 2007. At that meeting, the Governor signed an Executive Order to control greenhouse gas emissions in order to help to tackle global warming. Also, a ban on big fish harvesting was announced, to ensure that local fisheries were given an opportunity to replenish. In addition to ensuring the quality of water and safety of waterways, for the first time the Territory secured funds specifically for hazardous material clean-up programmes.[9]

54. With regard to all-hazard emergency preparedness and security matters, the territorial Government established a local department of homeland security, as previously reported (see A/AC.109/2007/15). In 2007, the Office of the Inspector General of the United States Department of Homeland Security expressed concern to the United States Congress with regard to homeland security funding awarded to American Samoa. According to media reports, the Office of the Inspector General had "determined that the American Samoa Government's strategic plans were fundamentally flawed in that they failed to sufficiently identify deficiencies in immediate equipment and training needs and overall capabilities of the territorial Government's first responders.[32] The territorial Government acknowledged that the United States Department of Homeland Security had frozen all funds for the Territory's homeland security owing to administrative deficiencies.[9]

VII. Relations with international organizations and partners

55. American Samoa has been an associate member of the United Nations Economic and Social Commission for Asia and the Pacific since 1988. The International Labour Conventions and the International Labour Recommendations are applicable to it. The Territory belongs to various regional bodies of the United Nations system, including WHO, the Regional Office for the Western Pacific and the WHO Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies.

56. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian-South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme, the South Pacific Applied Geoscience Commission and the Council of Pacific Arts. It also belongs to such United States organizations as the National and Western Governors' Conferences. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

[32] *Samoa News*, 6 December 2007.

57. In 2006, American Samoa withdrew its application to the Pacific Islands Forum for observer status following opposition from the United States Department of State. No information on progress was reported on American Samoa joining the Forum as an associate member in 2007.[33]

VIII. Future status of the Territory

A. Position of the territorial Government

58. Section II of the present working paper reflects recent developments in American Samoa concerning its future political status.

B. Position of the administering Power

59. Most recently, in a letter dated 2 November 2006 addressed to Congressman Faleomavaega, the Assistant Secretary of State for Legislative Affairs, Jeffrey T. Bergner, elaborated the position of the United States Government on the status of American Samoa and other United States Insular Areas. In his letter, the Assistant Secretary indicated that the status of the Insular Areas regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee of 24. The letter also noted that the Special Committee of 24 had no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. The letter further stated that at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social, and educational conditions, the federal Government did submit annual updates on United States Territories to the Special Committee of 24 as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee of 24 might have received from other sources.[34]

C. Action by the General Assembly

60. On 17 December 2007, the General Assembly adopted, without a vote, resolutions 62/118 A and B, based on the report of the Special Committee transmitted to the General Assembly[35] and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee) (A/62/412). Section I of resolution 62/118 B concerns American Samoa. Under that section's operative paragraphs, the General Assembly:

> 1. *Welcomes* the establishment of the Future Political Status Study Commission, which began its work in June 2006 and prepared its report in

[33] Radio New Zealand International (18 and 26 October 2006); radio Australia, http://www.abc.net/au/ra, 19 October 2006.

[34] *Samoa News*, 7 November 2006.

[35] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 23* (A/62/23).

January 2007, to study alternative forms of future political status open to American Samoa and to assess the advantages and disadvantages of each;

2. *Stresses* the importance of the invitation previously extended to the Special Committee by the Governor of American Samoa to send a visiting mission to the Territory, calls upon the administering Power to facilitate such a mission if the territorial Government so desires, and requests the Chairperson of the Special Committee to take all the necessary steps to that end;

3. *Requests* the administering Power to assist the Territory in facilitating its work concerning a public awareness programme recommended by the Future Political Status Study Commission in its 2007 report, consistent with Article 73 *b* of the Charter of the United Nations, and calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested, in the context of its public education programme.

United Nations A/AC.109/2008/4

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Pitcairn

Working paper prepared by the Secretariat

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I. Background information

1. Pitcairn[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located midway between Australia and the continent of South America at 25°S and 130°W. It comprises four islands in the eastern Pacific Ocean: Pitcairn, the only inhabited island (named after Robert Pitcairn, a midshipman who sighted it in 1767), Henderson, Ducie and Oeno. The total area of the Territory is 35.5 sq km while that of Pitcairn is 4.35 sq km.[2]

2. Access to Pitcairn is possible only by sea, usually by container vessels plying between New Zealand and the United Kingdom or from the eastern seaboard of the United States or the Caribbean, via the Panama Canal. A number of cruise ships also call at Pitcairn. Charter boats from Mangareva in French Polynesia are increasingly being given access to the Island. Ships visiting the Island remain at anchor some distance from the shoreline and visitors are ferried to the Island in longboats. According to the administering Power, ways of overcoming the isolation are being investigated and new shipping supply routes are being looked at (see also para. 22).

3. The terrain in Pitcairn is of rugged volcanic formation, with a rocky coastline and cliffs lining nearly the entire perimeter of the island, giving no easy access from the sea. Although canoes can be launched in many places, Bounty Bay and the Tedside landing are the only two places on the Island that offer a reasonably safe landing. Pitcairn enjoys a subtropical climate. Mean monthly temperatures vary from around 19°C in August to 24°C in February.

4. Pitcairn was uninhabited when castaways from HMAV *Bounty* (9 mutineers and 18 Polynesians) arrived there in 1790. Today, Pitcairn is inhabited partly by their descendants. Its population has been declining steadily since 1937, when it peaked at over 200. As of February 2007 the total population of the Territory was 46. It is common for young people to leave the Territory at the age of 15 (usually in their third year of secondary schooling) to attend secondary school in New Zealand. The continuing exodus of young people has been a concern to the Islanders for many years. The entire population lives in Adamstown, the only settlement in Pitcairn.

5. The official languages are English and Pitkern, which is a mixture of eighteenth century English and Tahitian.

II. Constitutional, political and legal issues

6. The Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970 jointly compose the Constitution of Pitcairn. These instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, to whom he is accountable. In

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 e of the Charter of the United Nations.

[2] The Far East and Australasia, 2005, Europa Publications.

practice, the High Commissioner of the United Kingdom to New Zealand is appointed concurrently as Governor of Pitcairn, and the responsibility for the administration of the Island is accordingly vested in him. The current Governor of Pitcairn is George Fergusson.

7. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. However, according to the administering Power, the Royal Instructions require him to obtain the prior approval of the Secretary of State for the enactment of certain classes of laws, including laws which appear to him to be inconsistent with the United Kingdom's treaty obligations and laws which discriminate between different communities or religions. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The Government of the United Kingdom retains the power to legislate directly for Pitcairn by an Act of Parliament or an Order in Council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures. The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them.

8. The major part of the general administration of Pitcairn is conducted from the Pitcairn Islands Office in Auckland, New Zealand, which is run by a Commissioner appointed by the Governor. The current Pitcairn Commissioner is Leslie Jaques. Pitcairn Islanders manage their internal affairs through the Island Council, which was established by Local Government Ordinance. The Ordinance conferred upon the Council the duty to provide for the enforcement of the laws of Pitcairn and empowered it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the Islanders.

9. With regard to the issue of self government, during a meeting before the United Kingdom's Foreign Affairs Committee in London on 3 December 2007, Mr. Jaques noted that one of his roles as Commissioner for the Pitcairn Islands was to restructure the current relationship between Pitcairn and the Governor's Office. Although Pitcairn Islands had always been run almost directly through the Governor's office, the intention was now to create a more self-governing scenario and to devolve operational responsibilities to Pitcairn. As a part of that process, Mr. Jaques said that the United Kingdom had consulted widely with the community and, as a result, he had spent a lot of time on Pitcairn; in addition to six months in 2007, he was expecting to spend most of 2008 on the Island in order to implement and manage change.[3]

10. The Island Council is required to meet at least once a month. It consists of 10 members: the Island Mayor, who is elected every three years (elections took place for the first time in 1999 when the century-old practice of naming a magistrate to head the local government ended); the Chairman of the Internal Committee, who is elected annually; four Councillors, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; one nominated member, who is appointed annually by the Governor; and two advisory (non-voting) members, one of whom is appointed annually by the other members of

[3] Transcript, 3 December 2007, United Kingdom Foreign Affairs Committee, House of Commons.

the Council. During elections in December 2007, the 38-strong electorate elected a new mayor, Mike Warren.[4]

11. The decisions of the Island Council are implemented by its Internal Committee, whose principal function is to organize and implement the public works programme, for which all adult and able-bodied Pitcairn Islanders are responsible. The work generally consists of roadwork, maintenance of public buildings and, most importantly, manning the longboats to retrieve any arriving cargo and passengers from passing ships.[5] The Committee comprises the Chairman and such other persons (not being members of the Council or public officers) as the Council, with the Governor's approval, may appoint.

12. For people not native to Pitcairn, three years of residence and being 18 years old are required to vote. Candidates for the posts of Mayor and Councillors must be at least 21 years of age and native to Pitcairn or resident on the Island for the previous three years. The Island Secretary prepares the register of voters in October of each year, and elections are held during the first two weeks in December. The Island Secretary and other non-elected officials of the local government, including the Postmaster, Communications Officer, Island Auditor and Police Officer, are appointed by the Governor, invariably after consultation with the Council.

13. An Island Magistrate is appointed from among the residents of Pitcairn. Other magistrates, legally qualified in a Commonwealth country, are appointed to preside over the Court in matters outside the powers of the Island Magistrate. The jurisdiction of the Court is limited to offences triable summarily, committal proceedings and certain inquiries, together with civil litigation up to a prescribed level. There is a right of appeal from the Court to the Supreme Court of Pitcairn, which is a superior Court of record and has jurisdiction in criminal and civil cases outside the competence of the Magistrate's Court. The Supreme Court is constituted by a judge, the Chief Justice or one of several puisne judges, with or without assessors. Further rights of appeal may be made to the Pitcairn Court of Appeal, comprising three judges, and the Privy Council.

14. According to the administering Power, the Pitcairn Courts have jurisdiction in relation to human rights arising out of the laws in force in the Islands. The judiciary and the Governor have a corresponding jurisdiction to uphold and enforce human rights in the Islands. Although the European Convention on Human Rights has not been extended to Pitcairn under article 63 of the Convention, the Pitcairn Court of Appeal has held that basic human rights apply to Pitcairn despite the fact that the Convention does not apply there.

15. Any violation of the civil or political rights of any person is justiciable by means of injunction and damages that may be awarded by the Supreme Court. That court has inherent power and jurisdiction to award compensatory damages and, in certain cases, punitive damages, as well as to give binding directions to secure the rehabilitation of such persons. In the circumstances of Pitcairn, the Governor, as holder of the highest executive office, and the Chief Justice, as head of the judiciary, are responsible within their respective spheres of authority for overseeing the implementation of human rights on Pitcairn.

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[4] Radio New Zealand International report of 12 December 2007 (available at http://www.rnzi.com).

[5] See *Pitcairn Today* (available at http://www.onlinepitcairn.com).

16. The administering Power has further noted that the laws in force in the Territory, including those relating to human rights, are published by the Government of the United Kingdom and the Pitcairn Administration and are readily available to all on the Island through the Island Secretary's office. The Territory's reports to international bodies are prepared by the Government of the United Kingdom, drawing on information provided by the Governor and the Commissioner.

III. Economy

17. The principal source of income for Pitcairn's public economy has traditionally been the sale of stamps, more recently supplemented by the sale of Internet domain names. Internet users worldwide can acquire a ".pn" suffix that is permanently awarded to Pitcairn. The fees for the acquisition of a ".pn" domain are US$ 200 for the first registration, which covers two years, and US$ 100 for the annual renewal. Revenue is also generated from interest and dividends, as well as increasing tourist arrivals (see the website of the Foreign and Commonwealth Office).

18. Owing largely to a downturn in the stamp market, Pitcairn's financial reserves were exhausted in late 2003, and the Island now receives budgetary assistance from the United Kingdom Department for International Development. In 2006-2007, expenditure was roughly NZ$ 3.8 million, and income for the year was NZ$ 604,400.[6] Budgetary aid of NZ$ 3.2 million was provided in 2006-2007 to help meet the operating budget deficit. Significant development funds have been allocated for infrastructure projects by the Department for International Development and the European Union.

19. The private economy of Pitcairn is based on subsistence gardening and fishing and the manufacturing and sale of handicrafts, as well as the export of dried fruit, honey and honey products. Bartering, mainly with passing ships, is an important part of the economy. The fertile soil of the valleys produces a wide variety of fruits and vegetables. Fish is the main source of protein in the Islanders' diet.

20. Pitcairn exports fruits, vegetables, handicrafts and high-quality honey and imports, mostly from New Zealand, fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs. The latter are ordered several months in advance and are obtainable through a cooperative store, established in 1967. Pitcairn's products are sold in New Zealand, Japan and the United States of America. The Pitcairn Island Producers' Cooperative, established in 1999, promotes and coordinates the distribution of products produced by its members. A number of Pitcairn items are available directly from Pitcairn through the Internet. Given the remoteness of Pitcairn, customers must allow up to six months or more for delivery and, when paying for orders by cheque, customers are advised to leave their cheques undated because of the long time it takes to process them.

21. The uninhabited island of Henderson, designated as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1988, is the largest of the group and the most productive of the three satellite islands. Pitcairners usually travel there once a year, staying a few days to collect a year's supply of miro wood, which they use to produce their carvings, and to

[6] Pitcairn's currency is the New Zealand dollar. As at 22 January 2008, one New Zealand dollar was equivalent to US$ 0.77.

undertake layering of young miro branches in an effort to ensure a sustainable crop for years to come. The journey by longboat may take about 14 hours each way, depending on weather conditions. The Islanders also make the voyage to Oeno, known as their "holiday island", once a year for a week of fishing and gathering coconuts and shells. Traditionally, the fish caught on those expeditions is shared equally among the families in the Territory.

22. Pitcairn is crucially dependent upon certain key items of infrastructure, including the jetty, longboats and boat shed, and the road from the jetty up to the main settlement. The year 2005 saw the completion of projects by the United Kingdom Government to repair and upgrade the Island's jetty and slipway and construct a sealed road — Pitcairn's first — from the landing area to the Adamstown settlement. A new museum was also constructed to provide a focal point for the community and for tourist visitors.

23. There is one 6.4 km paved road and no railways on the island; hence, walking has historically been the way of getting around. In recent years, however, suitable all-terrain vehicles have become common,[7] such as four-wheelers or quads.[8]

24. In 2007 consultants were hired to carry out feasibility studies and prepare detailed designs and costings for both a planned breakwater and a new wind-diesel electricity generation system for the provision of a 24-hour electricity supply. Currently, diesel-driven generators provide 240-volt electric power for approximately four hours each evening and for two hours each morning. While Pitcairn's isolation and access constraints have an impact on the speed with which progress can be made, it is hoped that implementation will start in 2008. New shipping alternatives via New Zealand and French Polynesia are also currently being looked at.

25. In September 2006 Pitcairn received a new communications system funded by the United Kingdom Government. This system provided the Island with telephones in all homes, a stable Internet system, limited television service and videoconferencing capabilities to allow greater contact with the Governor's and Commissioner's Offices in New Zealand and to provide telemedicine and educational services. The connection to the Internet is via a seismic station placed on the Island by the Albuquerque Seismological Laboratory, which has a network of seismological stations around the world that feed data via satellite. That satellite connection is shared with the Pitcairn residents to connect to the Internet.[9]

26. With regard to land distribution issues, by the late 1970s, owing mainly to emigration, most of Pitcairn was owned by Pitcairn Islanders who no longer lived there. Legislation enacted in 2000 was intended to ensure that every Pitcairn Islander was entitled to an allocation of house, garden, orchard and forestry land "sufficient to meet their needs" for as long as they live on Pitcairn. An annual land tax payable on all land held by non-residents of the Territory, or on land held by residents "in excess of his or her reasonable needs", is aimed at ensuring that sufficient land is available for reallocation through the Land Court, upon application. Only Pitcairn Islanders by birth or naturalization, their children or

[7] See http://en.wikipedia.org/wiki/Pitcairn.

[8] See *Vanity Fair* magazine, January 2008 (available at http://www.vanityfair.com/culture/features/2008/01/pitcairn200801).

[9] See Pitcairn Island website, http://www.lareau.org/pitc.html.

grandchildren (having reached the age of 18 years) are eligible to apply for an allocation. They must be resident at the time of application and must intend to remain so. However, according to the latest available information, this legislation has not yet been put into effect. More detailed information on land distribution issues is provided in the 2005 working paper (A/AC.109/2005/10).

IV. Social and educational conditions

27. The population of the Territory is self-employed, but allowances and wages are paid to members of the community who participate in local government activities or perform communal services. Public work, which is required by law of all men and women between 15 and 65 years of age, is partly a relic of the society created by the mutineers and partly a necessity born of the basically tax-free economy. The most essential of the traditional public duties are concerned with Bounty Bay and the maintenance of the public boats. Installations in the Bay are provided mainly from general revenue and grants from the United Kingdom. The only jobs in the Territory are government posts, which are normally reserved for permanent residents of Pitcairn. There are no banking facilities, but undated personal cheques and traveller's cheques may be cashed at the Island Secretary's office.

28. Education is free and compulsory for all children between 5 and 15 years of age. Pitcairn's only school, which was completely rebuilt in 2006, is operated and financed by the local government. Instruction is in English and is based on the New Zealand standard curriculum. The Education Officer, who is also the editor of the *Pitcairn Miscellany*, the Territory's only newspaper, is a trained teacher recruited from New Zealand, usually for a one-year term. As a point of practicality, post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Overseas secondary education is encouraged by the grant of bursaries, and a number of students have received secondary education in New Zealand at the expense of the Government of Pitcairn. In November 2006, following a meeting of the Overseas Territories Consultative Council, the United Kingdom announced that beginning in 2007, citizens from the Overseas Territories would benefit from the home student fee rate at English universities.[10]

29. The Seventh Day Adventist Church is the only Church on the Island. A pastor from New Zealand is currently stationed on the Island.

30. The Pitcairn Island Health Centre, completed in 1997, was funded by the United Kingdom Government Overseas Development Administration. It has an examination room, a dental clinic, an X-ray room and a two-bed ward for overnight patients. A general practitioner, recruited from Australia, is stationed on the Island on a three-month rotation, assisted by an assistant nurse and a local dental officer, who also acts as an X-ray technician. The Government has also funded a social welfare programme, which ensures the presence of a social worker on the Island at all times. In terms of general health, though the Islanders still keep active tending fruit and vegetable gardens and working the surrounding ocean for food, the increasing use of quad bikes[8] has led to a serious increase in obesity and diabetes.

[10] See http://www.fco.gov.uk, 23 November 2006, Lord Triesman, Overseas Territories Minister, eighth meeting of the Overseas Territories Consultative Council on 21 and 22 November.

31. Pitcairn Island has a new museum building built with a grant from the Government of the United Kingdom. Artefacts on display include stone tools made by Polynesians prior to the arrival of the mutineers as well as cannonballs, an anchor and a swivel gun from the Bounty.[11]

32. According to the administering Power, there has been ongoing public interest in certain cases of serious sexual offences against young persons on Pitcairn. These include numerous criminal charges of rape and indecent assault. Thirteen men were charged with a total of 96 offences. The trials of the seven on-island defendants were held on Pitcairn in 2004: six of them, including individuals holding public office, were convicted on a number of counts. Four men received custodial sentences.

33. The convicted men appealed to the Pitcairn Court of Appeal and from there to the Privy Council in London on a range of issues. These included the sovereignty of the Pitcairn Islands, the promulgation of English law on the Island, delay, and other issues that they claimed were an abuse of process. Their appeals were finally dismissed by the Privy Council in a judgement handed down on 30 October 2006. This judgement stated inter alia that "infinite care appears to have been taken by all those involved to ensure that the investigation and the proceedings were conducted fairly ..." Other appeals were heard in 2007, and although one count was dismissed for one of the offenders, the sentences were not substantively altered.

34. The custodial sentences of five of the convicted men have begun in the Pitcairn prison, which is staffed by professional officers on contract to the Island from the New Zealand Department of Corrections. The new on-island prison was built early in 2007 to house them. The United Kingdom is covering the cost, which is expected to total about £500,000 (US$ 1.2 million) a year.[12]

35. Two men have now been granted home detention, which is supervised by the Island Police Officer. One of the men is due to be released on parole in February 2008. Another offender has been granted parole, having been initially granted home detention by the Pitcairn Parole Board. The community-based sentences of the other two convicted men have been completed. The trials of two more Pitcairn men, Brian Michael John Young (resident in Australia) and Shawn Brent Christian (resident in New Zealand), took place in the Pitcairn Supreme Court sitting in Auckland in December 2006. Guilty verdicts were handed down on 9 January 2007. On 5 March, both were jailed after returning to Pitcairn, where they received sentences of six-and-a-half years and three-and-a-half years, respectively. In the case of Brian Michael John Young, Chief Justice Charles Blackie said he was extending the sentence to the longest prison sentence yet because of his abhorrent attacks on girls aged from 7 to 15 over a long period of time in the 1970s.[13] A further New Zealand resident Pitcairner pleaded guilty to charges of indecent assault before the Pitcairn Supreme Court in November 2006. He was fined NZ$ 2,000. The extradition of a New Zealander is also still being sought on charges of rape and indecent assault.

36. The situation has been viewed with concern by the Islanders, since, among other things, it takes four men to handle the longboats, which take cargo and passengers to and from the Island. According to the administering Power, three of

[11] Nick Squires, "Pitcairn museum shows Bounty treasures", *Telegraph* (London), 31 August 2005.
[12] Reuters, 1 November 2006.
[13] Deutsche Presse Agentur, 4 March 2007; Agence France-Presse, 5 March 2007.

the men who received custodial sentences are able-bodied men who can assist in the handling of the longboats. Prison regulations, however, allow prisoners on the Island to work outside the prison under supervision and, in certain circumstances, to be temporarily released for employment. According to information provided by the administering Power, this is a matter for the prison authorities to decide upon.

V. Relations with international organizations and partners

37. The United Kingdom and the Overseas Territories represented at the 2007 Consultative Council, including Pitcairn, agreed to extend the United Nations Convention Against Corruption to all the Overseas Territories at the earliest opportunity, as well as to set a date in June 2008 for the extension of the Convention No. 182 of the International Labour Organization on the Worst Forms of Child Labour, and December 2008 for the extension of the Convention on the Elimination of All Forms of Discrimination against Women[14] to all the Overseas Territories.[15] As mentioned in paragraph 21 above, the uninhabited island of Henderson was designated as a World Heritage Site by UNESCO in 1988.

VI. Future status of the Territory

A. Position of the territorial Government

38. The last statement made by a representative of the Island Mayor to the Pacific Regional Seminar on decolonization was made in Madang, Papua New Guinea, from 18 to 20 May 2004. It is summarized in the report of the Special Committee of 24 for 2004 (A/59/23).

39. It should be noted, however, that with regard to self-determination, the representative reiterated that the people of Pitcairn did not fully understand all the possibilities or the significance of the various self-determination options that might be available to them. Knowing that Pitcairn's constitutional review had been deferred until sometime after the trials (see paras. 32-36), he added that it seemed logical to precede this process with discussions on self-determination. To that end, he said that Pitcairn would gain maximum benefit in understanding its political future from a United Nations visiting mission. He added that Pitcairn also remained eager to develop, with the Special Committee and the Government of the United Kingdom, a work programme in accordance with the Committee's proposal of 2000 (see A/AC.109/2001/2).

B. Position of the administering Power

40. In a statement made on 11 October 2007 before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-second session of the General Assembly, the representative of the United Kingdom said inter alia that her Government, as administering Power for 10 Non-Self-Governing Territories, gave every help and encouragement to those Territories which wished to proceed to

[14] United Nations, *Treaty Series*, vol. 1249, No. 20378.

[15] See Press Release of 6 December 2007 (available at http://www.fco.gov.uk).

independence, where that was an option. The representative said that her Government and its overseas territories continued to work towards the shared goals of security, stability and sustainable political and economic development, democracy, good governance and the rule of law, and that her Government carefully considered all proposals for constitutional change received from the Territories (see A/C.4/62/SR.5).

41. As reported by the Secretariat in its working paper of 9 March 2007 (see A/AC.109/2007/6, para. 33), in a statement made on 24 April 2006, the United Kingdom Overseas Territories Minister took stock of the relationship between the United Kingdom and the Overseas Territories seven years on from the 1999 White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories".[16] An elaboration of the United Kingdom's position on alternative forms of relationship, as set out in United Nations General Assembly resolution 1541 (XV), has been previously provided (see A/AC.109/2007/6).

C. Action by the General Assembly

42. On 17 December 2007, the General Assembly adopted resolutions 62/118 A and B without a vote, on the basis of the report of the Special Committee transmitted to the General Assembly (A/62/23) and subsequent consideration by the Special Political and Decolonization Committee (A/62/412 and Add.1). Section VIII of resolution 62/118 B concerns Pitcairn. Under that section's operative paragraphs, the General Assembly:

(a) Requested the administering Power to continue its assistance for the improvement of the economic, social, educational and other conditions of the population of the Territory and to continue its discussions with the representatives of Pitcairn on how best to support their economic security;

(b) Noted the position of the representative of the elected Government of the Territory favouring discussions on self-determination in advance of a constitutional review, and considers that a United Nations visiting mission to the Territory would heighten the awareness of the people of their political future.

43. With regard to the issue of Pitcairn as a more self-governing entity see also paragraph 9 above.

[16] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs (see A/AC.109/1999/1, annex, and Corr.1).